

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 14, 2011

SUBJECT	DESCRIPTION	PRESENTER
FEE RULES REVIEW		
03-0101-1001	Rules of the State Athletic Commission	Roger Hales, Administrative Attorney, Bureau of Occupational Licenses
32-0101-1001	Rules Governing the Credit Enhancement Program for School Districts	Larry Johnson, Manager of Investments, Endowment Fund Investment Board
Pending Rules Review		
38-0501-1001	Rules of The Division of Purchasing	Bill Burns, Administrator, Division of Purchasing, Dept. of Administration
44-0101-1001	Rules of the Administrative Rules Coordinator	Dennis Stevenson, Administrative Rules Coordinator, Dept. of Administration

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Geddes

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 14, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Geddes, Davis, Hill, McGee, Winder, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:02 a.m.

Chairman McKenzie asked the Page for the Senate State Affairs Committee, **Hannah Chelson**, to introduce herself.

Chairman McKenzie turned the meeting over to **Vice Chairman Fulcher**, for Rules Review.

Vice Chairman Fulcher welcomed everyone. He explained that the Rules for review by the State Affairs Committee are scheduled for three meetings.

FEE RULES REVIEW

**Docket
03-0101-1001**

Rules of the State Athletic Commission

Roger Hales, Administrative Attorney, Bureau of Occupational Licenses and the State Athletic Commission, remarked that **Athletic Commissioner Tom Katsilometes** was in the audience and would comment, if needed. **Mr. Hale** explained that last year the House passed HB684 which allowed the Athletic Commission to charge a fee to review and approve Amateur Athletic sanctioning organizations among other things. It also makes changes to the nonpayment of amateur fighters and clarifies health insurance requirements and bond requirements for those sanctioning organizations. The fees set in this rule are: a \$250 review fee and a \$500 fee for approval. And, a minimum of \$10000 for health insurance.

MOTION

Senator McGee made a motion to adopt Docket 03-0101-1001. **Senator Geddes** seconded the motion. The motion carried by **voice vote**.

**Docket
32-0101-1001**

Rules Governing the Credit Enhancement Program for School Districts

Larry Johnson, Manager of Investments, Endowment Fund Investment Board, explained the purpose of this rule is to allow the Public School Endowment Fund to guarantee the school district bond payments will be made. This enhances investor confidence which improves the credit of school districts and the bond rating. There are costs to the Investment Board and the Public School Endowment for providing this credit enhancement or credit insurance. There are two fees specified in the rules. An Administrative fee of \$500 to offset the cost of running the program and a one-time fee or insurance premium for issuing the guaranty of 2 basis points of the original principal plus expected interest.

Senator Winder asked that for the purpose of disclosure, it be stated in the minutes that he is a member of the Endowment Fund Investment Board.

Karen Echeverria, Executive Director, of the Idaho School Boards Association, said the Association objected to the rule in 2010 because the fee was not placed in the rule. The fee has been moved back in the rule so there is legislative oversight over the fee and so the Association has no more objections to this rule.

MOTION **Senator Hill** made a motion that the committee approve Docket 32-0101-1001. **Senator McGee** seconded the motion. The motion carried by **voice vote**.

PENDING RULES REVIEW

Docket
38-0501-1001

Rules of the Division of Purchasing

Bill Burns, Administrator, Division of Purchasing, Department of Administration, stated that the changes made by this rule makes revision to the Division of Purchasing rules to create better value to the State, to make the contract process more efficient and to change the language to be consistent with the statutes adopted in the 2010 legislative session. **Mark Little**, Purchasing Manager, testified regarding the requirement of Federal contracting qualifications for vendors. He stated this would be necessary if there are solicitations involving Federal funding.

MOTION **Senator Geddes** moved that the Committee recommend adoption of Docket 38-0501-1001. **Senator Malapeai** seconded the motion. The motion carried by **voice vote**.

Docket
44-0101-1001

Rules of the Administrative Rules Coordinator

Dennis Stevenson, Administrative Rules Coordinator, Department of Administration, said the changes to this rule were made to reflect changes in methods of access to the Administrative Bulletin and the Administrative Code. These publications are available in electronic form and no longer are required to be printed and bound by the passage of HB412 and HB413 in the 2010 legislative session. Other changes were made to clarify language and update requirements. A section was added to address making non-substantive changes to a rule by the Rules Coordinator outside of regular rulemaking procedures. Such changes are changes of addresses or telephone numbers sited within rules. Records of these changes are kept.

MOTION **Senator McGee** moved the adoption of Docket 44-0101-1001. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Fulcher turned the meeting back to **Chairman McKenzie**.

ADJOURN **Chairman McKenzie** adjourned the meeting at 9:16 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

**AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 17, 2011**

SUBJECT	DESCRIPTION	PRESENTER
RS20077	Relating to Right to Work	Senator John Goedde
RS20090	Relating to The Fairness in Contracting Act	Senator John Goedde
PENDING RULES REVIEW		
34-0101-1001	Fees for Automated Data Retrieval	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0102-1001	Rules Governing Facsimile Services and Fees	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0103-1001	Rules Governing the Public Access Information System (PAIS)	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0104-1001	Rules Governing the Electronic Bulletin Board Service	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0504-1001	Rules Governing Public Access to UCC Files	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0501-1001	Rules Governing Farm Products Central Filing System	Tim Hurst, Chief Deputy, Office of the Secretary of State
34-0502-1001	Rules Governing Liens in Crops, For Seed, and Farm Labor	Tim Hurst, Chief Deputy, Office of the Secretary of State

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Geddes
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 17, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Geddes, Malepeai, and Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:01 am.

RS20077 Relating to Right to Work
Senator John Goedde testified that this legislation will provide open access to public work projects.

MOTION **Vice Chairman Fulcher** moved, seconded by **Senator McGee**, to print **RS20077**. The motion carried by **voice vote**.

RS20090 Relating to The Fairness in Contracting Act
Senator John Goedde explained that **RS20090** will amend Idaho Code, Chapter 20, Title 44, by adding a new section that prohibits wage subsidies through Job Targeting/Marketing funds.

MOTION **Vice Chairman Fulcher** moved, seconded by **Senator Hill** to print **RS20090**. The motion carried by **voice vote**.

Chairman McKenzie turned the meeting over to **Vice Chairman Fulcher** for Rules Review.

PENDING RULES REVIEW

Docket No.
34-0101-1001 Fees for Automated Data Retrieval
Jeff Harvey, UCC Supervisor, Office of the Secretary of State, explained this rule repeals the chapter in the administrative rules that pertains to fees charged for automated data retrieval. Due to advances in technology, this fee is no longer necessary.

MOTION **Chairman McKenzie** moved, seconded by **Senator McGee**, to approve **Docket No. 34-0101-1001**. The motion carried by **voice vote**.

Docket No.
34-0102-1001 Rules Governing Facsimile Services and Fees

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, stated that it is no longer necessary to charge a fee for sending faxes. Requests for faxes are no longer common-place.

MOTION **Senator Geddes** moved, seconded by **Senator Malapeai**, to approve **Docket No. 34-0102-1001**. The motion carried by **voice vote**.

Docket
34-0103-1001

Rules Governing the Public Access Information System (PAIS)

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, said this system hasn't been used in ten years. The system in place now, Access Idaho, makes this obsolete.

MOTION **Senator Winder** moved, seconded by **Senator McGee**, to approve **Docket No. 34-0103-1001**. The motion carried by **voice vote**.

Docket No.
34-0104-1001

Rules Governing the Electronic Bulletin Board Service

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, explained that this service is no longer used due to the Access Idaho system in place now. This rule is no longer necessary.

MOTION **Senator McGee** moved, seconded by **Senator Geddes**, to approve **Docket No. 34-0104-1001**. The motion carried by **voice vote**.

Docket No.
34-0504-1001

Rules Governing Public Access to UCC Files

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, said this is a repeal because this rule is no longer used. There are now multiple ways of access and this is no longer enforced.

MOTION **Senator McKenzie** moved, seconded by **Senator Geddes**, to approve **Docket No. 34-0504-1001**. The motion carried by **voice vote**.

Docket No.
34-0501-1001

Rules Governing Farm Products Central Filing System

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, stated that **Docket No. 34-0501-1001** clarifies and updates seventeen year old rules that no longer reflect systems in use now. He further stated that provisions within this rule protect user identities by not requiring social security and tax identification numbers, instead using a system of unique identifier numbers. The system in place now has been approved by the USDA. **Mr. Harvey** continued that on pages 39 through 43, changes have been made to update the crop code charts. Also, that on pages 43 and 44, Subsections 200.03, 200.04 and 200.05 are deleted. **Senator Davis** asked **Mr. Harvey** why the rule struck-out those parts, particularly the county code chart. **Mr. Harvey** replied the intent was to clarify the rules, the PLM number code chart has to stay in the rule, but the county code chart was no longer necessary. **Senator Davis** further asked if there was sufficient legal standard to be able to use county codes in legal matters. **Mr. Harvey** replied that the codes were included in the instructions on the application and that the Deputy Attorney General assigned to their office has approved the changes. **Senator Davis** remarked that he felt it was still necessary to use county codes for a UCC-1F Farm Products Financing Statement. **Mr. Harvey** offered to have the Deputy Attorney General contact

Senator Davis to answer his questions. **Senator Stennett** questioned the fiscal impact from the fee schedule changes. **Mr. Harvey** replied that the fees struck haven't been used for a long time.

Vice Chairman Fulcher said he would hold **Docket No. 34-0501-1001** over to the next meeting on January 19, 2011 for more information and it would be first on the agenda. **Vice Chairman Fulcher** then asked **Mr. Harvey** to continue with **Docket No. 34-0502-1001**.

**Docket No.
34-0502-1001**

Rules Governing Liens in Crops, For Seed, and Farm Labor

Jeff Harvey, UCC Supervisor, Office of the Secretary of State, testified that the changes in this rule are to clarify and correct the previous rule set from 1993.

Senator Davis asked about the change on page 52 regarding Administrative Appeals. **Mr. Harvey** replied that the change addresses administration process, not litigation processes.

MOTION

Senator Davis moved, seconded by **Senator McKenzie**, to approve **Docket No. 34-0502-1001**. The motion carried by voice vote.

Vice Chairman Fulcher returned the Chair to **Chairman McKenzie** for the remainder of the meeting.

ADJOURN

Chairman McKenzie adjourned the meeting at 8:52 am.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 19, 2011

SUBJECT	DESCRIPTION	PRESENTER
PENDING RULES REVIEW		
34-0502-1001	Rules Governing Liens in Crops, For Seed, and Farm Labor	Jeff Harvey, UCC Supervisor, Office of the Secretary of State
31-0101-1001	Rules of Procedure of the Idaho Public Utilities Commission	Commissioner Jim Kempton, Idaho Public Utilities Commission
31-1101-1001	Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission	Commissioner Jim Kempton, Idaho Public Utilities Commission
31-7103-1001	Railroad Safety and Accident Reporting Rules	Commissioner Jim Kempton, Idaho Public Utilities Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Geddes
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 19, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Hill, McGee, Winder, Malepeai, and Stennett
ABSENT/EXCUSED: Senators Davis and Geddes
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:08 a.m.
Chairman McKenzie announced there would be no meeting on Friday, January 21, 2011, and that the Committee will meet again on Monday, January 24, 2011.
Chairman McKenzie turned the Chair over to **Vice Chairman Fulcher** for Rules Review.

PENDING RULE REVIEW

Docket No. 34-0501-1001 Rules Governing Farm Products Central Filing System
Jeff Harvey, UCC Supervisor, Office of the Secretary of State, said that it was his understanding that the Senate State Affairs Committee seemed to have a problem with pages 43 and 44, specifically Subsections 200.03 and 200.05. He reminded the Committee that the House had already approved the Rule and asked what the Committee would like to do about those subsections. **Chairman McKenzie** replied that **Senator Davis** felt the information in those subsections should be left in. **Senator McKenzie** felt, since the House had approved **Docket No. 34-0501-1001**, the best action to take would be to approve it with the exception of **200.03** and **200.05**.

MOTION **Chairman McKenzie** moved, seconded by **Senator Winder**, to approve **Docket No. 34-0501-1001**, with the exception of **200.03** and **200.05**, understanding that the House State Affairs Committee has already approved the rule. The motion carried by voice vote.

Docket No. 31-0101-1001 Rules of Procedure of the Idaho Public Utilities Commission

Commissioner Jim Kempton, President of the Idaho Public Utilities Commission, stated that all rules have been through a Commission decision meeting. The Commission makes the decision to go ahead with the proposed rule at that time. **Mr. Kempton** further stated that this rule deals with administrative changes, clarification and definitions of customer services, definition of when a licensed attorney is required for hearings with the Commission, and customer notice requirements. **Vice Chairman Fulcher** called for questions. **Senator Stennett** inquired about the definition of a utility as to the changes from previous definitions. **Mr. Kempton** answered that this is a standard definition of a regulated utility. **Senator Stennett** asked what the difference is in compliance for a regulated and non-regulated utility. **Mr. Kempton** replied that a non-regulated utility has to comply with statute and the Commission over-see their tariff actions. If a customer has a problem with a non-regulated utility, they can file a complaint with the Commission. Also, the Commission has review authority over out-of-state non-regulated utilities, but not direct authority. **Chairman McKenzie** asked for clarification of Commission authority over cell phone service over the internet. **Mr. Kempton** asked **Deputy Attorney General Don Howell** to answer that question. **Mr. Howell** explained that the Commission does not regulate telecommunications carriers that provide service via the internet, only land-line services.

MOTION **Senator Hill** moved, seconded by **Senator Malapeai**, to approve **Docket No. 31-0101-1001**. The motion carried by voice vote.

Docket No. 31-1101-1001 Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission

Commissioner Kempton explained that this rule addresses pipeline control room management. Although there are no control rooms in Idaho, this rule provides language if there should be pipeline control rooms placed in Idaho and complies with Federal regulations requirements.

MOTION **Senator Winder** moved, seconded by **Senator McGee**, to approve **Docket No. 31-1101-1001**. The motion carried by voice vote.

Docket No. 31-7103-1001 Railroad Safety and Accident Reporting Rules

Commissioner Kempton said this rule adopts the 2010 revision of the Federal Safety Regulations pertaining to the transportation of hazardous materials.

MOTION **Senator Winder** moved, seconded by **Senator Stennett**, to approve **Docket No. 31-7103-1001**. The motion carried by voice vote.

Vice Chairman Fulcher returned the Chair to **Chairman McKenzie**. **Chairman McKenzie** thanked **Vice Chairman Fulcher** for chairing the Rule Review meetings.

ADJOURN **Chairman McKenzie** adjourned the meeting at 8:56 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

**AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 24, 2011**

SUBJECT	DESCRIPTION	PRESENTER
RS19932	Relating to the Idaho State Lottery	Jeff Anderson, Lottery Commission
RS20041	Relating to Bingo and Raffles	Jeff Anderson, Lottery Commission
RS20143	Relating to State Elected Officials	Mike Nugent, Research and Legislation
RS20141	Relating to Codifier's Corrections in Statutes	Mike Nugent, Research and Legislation

MINUTES APPROVAL

January 14, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 24, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:00 a.m.

RS19932 Relating to the Idaho State Lottery
Jeff Anderson, Director, Lottery Commission, explained that most of the changes in this legislation are to bring the statute up to date with the practices that are in place at this time. **Mr. Anderson** said there is no longer a need for a required line of credit because the process of claiming prizes has changed. Also, because the drawings are done with random number generating software, there is no longer a need to have the drawings observed and verified by a certified public accountant. **Senator Hill** inquired about safe-guards for the automated system and if the software is audited. **Mr. Anderson** assured **Senator Hill** that there are more than adequate safe-guards in place. Also, each drawing is videotaped and retained.

MOTION **Senator Hill** moved, seconded by **Senator Davis**, to print **RS19932**. The motion carried by **voice vote**.

RS20041 Relating to Bingo and Raffles
Jeff Anderson, Director, Lottery Commission, stated that **RS20041** relates to the operation of charitable gaming. Most of the items contained in this legislation is recommended by the Attorney General's office. Most items are for clarification or updating. **Senator Davis** questioned the change in Section 67-7712, Subsection 2, that would change the word shall to may, which did not seem to be appropriate in all parts of the subsection. **Mr. Anderson** replied that he could see that and asked to have the legislation returned to him to make the correct revisions.

MOTION No motion, **RS20041** will be returned to sponsor.

RS20143 Relating to State Elected Officials
Mike Nugent, Research and Legislation, presented this legislation which brings up to date Idaho Code, Section 59-105 which pertains to the use and rental of office space in the Capitol Mall Complex. **Senator Davis** asked about the definition of the Capitol Mall Complex. **Mr. Nugent** said that definitely a definition should be in the legislation and asked to take it back for revision.

MOTION No motion, **RS20143** will be returned to sponsor.

RS20141 Relating to Codifier's Corrections in Statutes

Mike Nugent, Research and Legislation, explained that this legislation makes codifying corrections to revise, clarify and make technical corrections to various sections of the Idaho Code to bring it up to date.

MOTION **Senator Davis** moved, seconded by **Senator McGee**, to print RS20141. The motion carried by voice vote.

MOTION **Senator Davis** moved, seconded by **Senator McGee**, to accept the minutes for the January 14, 2011 meeting.as written. The motion carried by **voice vote**.

ADJOURN **Chairman McKenzie** adjourned the meeting at 8:45.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 26, 2011

SUBJECT	DESCRIPTION	PRESENTER
S 1006	Relating to Right to Work	Senator John Goedde
S 1007	Relating to Labor Organizations	Senator John Goedde
RS20158C1	POW/MIA Flags	Senator Michelle Stennett

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 26, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:00 a.m.

S 1006 Relating to Right to Work

Senator John Goedde stated that this legislation addresses the issue of union-only project labor agreements (PLA's). These agreements are between unions and potential builders and precludes non-union contractors and builders from working on the job. Currently they are legal in the state of Idaho and are in use at Federal job sites. They preclude 93% of Idaho construction workers from working on those sites. Unions use the threat of labor strikes and trouble on the job sites to coerce builders and contractors to sign union-only PLA's. PLA projects drive up costs of construction by limiting non-union workers. It is estimated that the cost increase is 10-20% . The reason for this legislation at this time is an increase in union funded activities, such as non-union harrassment and one non-union contruction company that has been forced out of business by union harrassment.

Kate McCaslin, President and CEO of the Inland Pacific Chapter of Associated Builders and Contractors (ABC), stated that ABC is a national contruction association representing 23,000 individual employers in construction and industrial sectors of the construction industry. They represent both general contractors and sub-contractors throughout the United States, and have offices in southern Idaho, north Idaho and eastern Washington. **Ms. McCaslin** further stated that ABC would like to ask for the Committee's support for S 1006 for the following reasons: PLA's hurt workers by using non-local union workers before local non-union workers, non-union workers don't receive the benefits that employers pay into to satisfy union contracts, and are a costly waste of taxpayers' dollars because PLA's increase construction costs.

Dean Haagenson, Contractors Northwest, with offices in Coeur d'Alene and Boise, said that they believe using merit, in hiring, in compensation and subcontractor selection. He said that now the Federal government is encouraging PLA's which will make the cost of public projects higher. **Senator Davis** asked if this legislation affects projects at the INL. **Mr. Haagenson** answered that when Federal money is used, such as at the INL, this legislation will not apply.

A video was shown, showing picketing activity.

Jane Wittmeyer, Associated Builders & Contractors, Inc., Inland Pacific Chapter, announced that the formal presentation by the sponsors of S 1006 was finished.

James Piotrovski, Herzfeld and Piotrovski, representing the AFL-CIO, told the Committee that he was in agreement with a decision by the Attorney General's office that questioned if these bills could be defended in a lawsuit. He stated that S1007 is entirely pre-empted by Federal law and takes away the tool that Federal law makes available to them. The State of Idaho is free, to or not to, enter into Project Labor Agreements. **Mr. Piotrovski** cited that the 9th Circuit Court addressed this position very recently in a case involving the Rancho Santiago Community College, by stating that a government entity is free to decide that it will not enter into PLA's. He stated further that S1006 would not address the problems of picketing, that picketing is a form of free speech. If the State of Idaho passes these laws, it will become the test case. He recommended that S1006 and S1007 should not be passed out of committee. **Senator Davis** asked what case it was from the 9th Circuit Court that was referenced. **Mr. Pitrovski** answered that it was the Rancho Santiago Community College.

Janelle Bertsch, co-owner of an Idaho merit shop construction service business, asked that S1006 and S1007 be printed to make it possible for construction businesses to be successful without union interference.

John Foster, Northwest Council of Carpenters, testified that the issue is not just about unions, but making sure the State has flexibilities when entering into agreements with contractors. **Mr. Foster** stated a good example is the Sandpoint Bypass project. The contractor on that project entered into Project Labor Agreements with its subcontractors. That was not done to reward unions, but to guarantee consistency of workforce. **Senator Winder** asked if perhaps picketing targets people unfairly. **Mr. Foster** answered that picketing by the carpenter's union is usually done as a last resort after other means have failed. **Senator Davis** asked if this legislation becomes law, would contractors that use union labor be precluded from bidding or negotiating on state contracts. **Mr. Foster** stated that he didn't believe that, but that it needs to be understood that Project Labor Agreements are not a permanent agreement, but something that can be used to ensure quality. **Senator Malapeai** questioned if PLA's can be negotiated by non-union contractors. **Mr. Foster** said that yes they can, and one of the reasons to use PLA's is to keep costs of a project consistent. **Senator Lodge** asked if picketers are union members. **Mr. Foster** said that in most cases, the picketers are not members. The union will hire others to picket. **Senator Lodge** wanted to know if the union pays benefits and if they are only paid minimum wage. **Mr. Foster** did not know the answer to **Senator Lodge's** question.

Jim Thorpe, President of Thorco, Inc. which is an electrical contractor based in Coeur d'Alene. and is a merit shop, stated that union contracts bring in a lot of out-of-state workers. He supports the legislation.

Rod Clay, Business Manager for UA Plumber's and Pipefitters, Local 296 and President of the Southwest Idaho/Eastern Oregon Building Trades Council, testified against S1006 and S1007. **Mr. Clay** stated that PLA's are bargaining agreements that govern terms and conditions of employment for all crafts and laborers involved. He opposes the legislation.

Julie Pipal, Independent Electrical Contractors of Idaho, stated that this legislation is a jobs bill that is sending the message to the people of the State of Idaho that it doesn't create special opportunities for special interests. It is especially important during these economic times to create a level playing field for all Idahoans. **Senator Stennett** asked if the 92% of the workforce that are non-union are all paid at the same level, with the same benefits. **Ms. Pipal** answered that it is not the same from shop to shop and that it depends what type of work they are doing.

Dean Haagenson asked **Chairman McKenzie** if he could respond to **Senator Stennett's** question. He stated that a merit shop's pay is based on a worker's capabilities and skills. Each company will work with different plans and different pay scales. **Senator Stennett** asked if it were true, with different wages and benefits paid to workers, in the bidding process, wouldn't consistency be hard to achieve. **Mr. Haagenson** replied that every project is made from a set of plans, which usually dictates the bidding process. Paying the same wage to every type of worker won't achieve consistency.

Dave Whaley, President of the Idaho AFL-CIO said that, first of all, his association is opposed to S1006 because they think it limits the political subdivisions from choosing PLA's if they want. His association feels that working together, union and non-union is important, putting Idaho workers back to work. PLA's make project costs cheaper. **Mr. Whaley** stated that S1006 was a waste of taxpayers money because legislation is already in place for the same things. **Mr. Whaley** added that the AFL-CIO does not condone the picketing and protesting, they are not AFL-CIO and that passing S1006 will not change picketing. **Senator Winder** asked **Mr. Whaley** that, if the right to use or not to use PLA's is already in place, what would be the problem with passing S1006. **Mr. Whaley** answered that the bill would take away the right of political subdivisions to choose to use PLA's or not. **Vice Chairman Fulcher** asked if **Mr. Whaley** has any data comparing the rates of union workers vs. non-union workers. He replied that he did not have that type of information. **Vice Chairman Fulcher** further asked if, in **Mr. Whaley's** view, did union workers have better wages and benefits than non-union workers. **Mr. Whaley** replied that usually that is the case due to collective bargaining which includes benefits.

Judd Lees, Labor and Employment Attorney, Williams Kastner, Chapter Council for Inland Pacific Chapter of ABC, stated that the preemption arguments for potential legal challenges for S1006 are non-existent. The letter from Deputy Attorney General Brian Kane is not an official opinion and the letter indicates there is no preemption issues with regard to PLA's because the State of Idaho would be acting as a market participant. **Mr. Lees** said that the picketing and bannering is very much tied into PLA's.

Chairman McKenzie, with no other questions, asked for a motion from the Committee for **S1006**. **Vice Chairman Fulcher** commented that he felt that **S1006** puts the State in a better position to enhance free market.

MOTION

Vice Chairman Fulcher moved, seconded by **Senator Hill**, to send S1006 to the floor with a do pass recommendation.

In discussion, **Senator Malapeai** said that he felt it would be warranted to have time to study the Attorney General's letter in order to have a better understanding about the legal issues.

SUBSTITUTE MOTION

Senator Malapeai moved, seconded by **Senator Stennett**, to hold **S1006** in Committee until the next meeting.

The motion failed on **roll-call vote**.

Chairman McKenzie called for a roll-call vote on the original motion.

Chairman McKenzie - Aye

Vice Chairman Fulcher - Aye

Senator Davis - Aye

Senator Hill - Aye

Senator McGee - Aye

Senator Winder - Aye

Senator Lodge - Aye

Senator Malapeai - Nay

Senator Stennett - Nay

The motion carried on **roll-call vote**.

S 1007

Relating to Labor Organizations

Senator Monte Pearce said this legislation is brought by the Inland Pacific Chapter of the Associated Builders and Contractors. He related that when a non-union contractor and a union contractor bid on a project, the union contractor usually will get the bid because they can underbid and use the Market Recovery Funds to make up for the lower bid. Senator Pearce referenced a letter providing information concerning harassment from union elements. Senator Winder asked for a copy of the letter for information. A copy of the letter was furnished.

Kate McCaslin, President and CEO of the Inland Pacific Chapter of Associated Builders and Contractors (ABC), stated that the National Labor Relations Act contains Section 14B which recognizes states' rights to, among many things, pass a right to work law. This allows states to protect their workers' right to work. Twenty-five years after the State of Idaho passed the Right to Work Law, it has been eroded by union activities. **Senator Davis** asked that if, in order to avoid the preemption argument, the State of Idaho needed to pass a law such as S1007.

Ms McCaslin deferred the question to **Judd Lees**, ABC legal council. **Mr. Lees** answered that he has reviewed preemption cases and has found none that involve a Right to Work state. **Mr. Lees** continued that Job Targeting programs give advantage to union contractors.

Senator Davis asked, and would like the minutes to reflect, what **Mr. Lees** believes is the State's interest in the passage of this legislation. **Mr. Lees** replied that the State's interest is espoused in the Right To Work's Section 44.2001 that says that employees, whether union or non-union, would be free to work, free from any coercion or any undo hardship with regard to union membership. And with regard to the union member, the hardship is a direct one. Money is taken and the union member may never see that money again. Their right to work is dependent on complying with an agreement that their employer has made with the union. As for the non-union worker, it is more of an indirect infringement, but, none-the-less, a very real one if their employer happens to be a target. It is called a job-targeting bill for a reason. If a contractor becomes a target for a union, that targeting follows that contractor from job to job, and soon they are out of business. **Senator Winder** inquired if there is any evidence that union dues are used to underwrite such activities. **Mr. Lees** answered that there are Market Recovery programs in the State of Idaho. He said that the Federal government requires reporting of such programs. **Senator Winder** said he would like more evidence of these practices in the State. **Senator Hill** asked who had drafted S1007, along with that what precautions were taken to determine it would survive legal scrutiny and are there any other states that have passed similar legislation and what were the results. **Mr. Lees** answered that his opinion letter is the analysis with regard to the Attorney General's concern with preemption. **Senator Hill** asked to follow-up and asked if that was prepared after the bill was drafted. **Mr. Lees** replied that the bill sponsors anticipated such a concern and talked to him and he put his opinion into his letter.

Jane Wittmeyer, representing ABC, said that to answer **Senator Winder's** question regarding Market Recovery funds and if they are coming into the State of Idaho, the Labor Management Report, LM-2, the annual labor organization report from the U.S. Department of Labor shows that funds are being used in Idaho. **Senator Winder** stated he thought **Ms. Wittmeyer** should submit a copy of the LM-2 report to support her testimony. **Senator Hill** said that he would still like to know where the verbiage in the legislation came from. **Ms. Wittmeyer** answered the verbiage is from a similar piece of legislation that came before the State Affairs Committee in 2009. **Ms. Wittmeyer** continued that, at the print hearing in 2009, it was advised to remove the intent language, which the current legislation has done. And, the original language came from legislation from the state of Missouri. It was modified to meet the state of Idaho. A similar process was used for S1007, which was drafted at the national level by ABC, and was modified to fit Idaho's needs. One thing that was advised for S1007 was to lower the penalty fees, and that was done. **Senator Stennett** asked what the penalty was before it was lowered. **Ms. Wittmeyer** isn't sure exactly what the fines were in the previous legislation, but there have been comments asking why the fines are so low in this legislation. Based upon the recommendations made from 2009's legislation, the drafters have kept the fees lower.

Chairman McKenzie said that, in his opinion, it might be advisable to hold **S1007** until it can be further evaluated by the Committee, as time was running short.

Dean Haagenon, Contractors Northwest, stated that he felt that everything had been said. Senator Davis asked **Mr. Haagenon** if he was personally aware of any contractors that had lost bids because of funds that came from other states. **Mr. Haagenon** replied that he had to say he "thought so", but wasn't sure because he had no way of knowing what the contents were of bids.

James Piotrovski, stated that he anticipated a possible fight in the courts involving S1006, and he was sure there would be legal action for S1007. He said that S1007 should be renamed the "labor lawyer's full employment act." **Mr. Piotrovski** said he would like to have more time to go over the opinion of Brian Kane, Deputy Attorney General that had been received that morning. Senator Davis asked that Mr. Piotrovski focus on the merits of what he believes the law is and what, if it is allowed, Idaho has to demonstrate in order for it to be enforceable. Mr. Piotrovski replied that there are two levels of preemption that are to be concerned about. Some areas of regulation are absolutely preempted by Federal law, those are what is expressly permitted or expressly prohibited by Federal law. If Federal law expressly permits a union or an employer or union member to do something, that area is removed from state regulation. Sometimes conduct is only arguably protected or prohibited by Federal labor law, and in that case, if it's arguably covered by Federal labor law, it's likely preempted, but there are exceptions. The first step in preemption analysis would be to determine whether a conduct is actually prohibited or protected. In this case, the use of Job Targeting programs is actually permitted by Federal Labor Law. The National Labor Relations Board has ruled on this repeatedly and a number of federal courts have ruled on it. The use of these programs is well within the sphere of items that unions are allowed to use in negotiating contracts. This is a case of absolute preemption. If wrong on that, the next step is whether it is arguably protected rather than absolutely protected. Then the issue becomes whether one of the exceptions to preemption applies. In this case, the only exception that might apply is one dealing with circumstances that are unique to local interests. We can only conclude Congress must have intended to let the states regulate in that case. A court case that arose in Idaho set the standard for those circumstances. In *Steel Workers vs. Rawson*, the Supreme Court said that the local law of torts was one of those areas where the state was free to regulate. The local law of torts being that law governing personal injury. In this case, the Job Targeting program is not directly related to Right to Work. It is an entirely different program, it is only directly related

to the deal that is struck between a union and an employer or a group of employers. A deal that says, "Our members are going to charge you a certain wage rate, but on certain jobs, that rate or the cost of benefits will be lowered."

Senator Davis asked if there is a doctrine of tortious interference with the right to contract. **Mr. Piotrovski** stated that he didn't have an answer to that question. He continued that in the case of an employer making an agreement with his employees to be paid less so that a contract can be won, it would not be tortious interference because it is an agreement between employer and employee, and doesn't interfere with anyone else getting the contract. **Senator Davis** stated that the facts are different than what **Mr. Piotrovski** just described, that it was his understanding that the rates weren't being substantially adjusted by the union members, but, instead, the bid for labor by the contractor was less than the hard cost they had to pay and then the Carpenters Union backfilled by making a larger payment to the contractor in order to cost-justify the labor that he was actually having to pay versus the rate he had bid. **Senator Davis** asked if he was correct in his understanding of the facts. **Mr. Piotrovski** answered that there are variations of the Job Targeting program. Some of them work in the way **Senator Davis** described, where the money is accumulated over time and when a project arises, the union says they have the funding available. If there is a need to compete at a lower rate than the normal labor rate, the Job Targeting fund is used. The Job Targeting program funds are shared equally by all union members.

Senator Davis asked if **Mr. Piotrovski** would acknowledge that if Job Targeting funds allow an employer to bid at a substantially less than competitive wage than anyone else, it gives them a huge advantage over other bidders. **Mr. Piotrovski** answered that in the instances he was aware of, the Job Marketing program was used to lower the wages a small amount to help to obtain the bid. **Senator Davis** said that it was his understanding from **Mr. Piotrovski's** testimony that the State of Idaho has no right as a matter of law to participate in the public policy decision as to whether this should or should not be lawful practice in this state. **Mr. Piotrovski** replied that that is the result of the Federal Government having occupied this field and making decisions at a national level as to what policy should be. He believes Congress had done that.

At this time, **Chairman McKenzie** excused **Mr. Piotrovski** and stated that, due to the time, he would like to hold **S1007** until the next scheduled meeting to address the legalities of the bill. **Chairman McKenzie** made a unanimous request, and there was no objection to the request to hold **S1007**.

RS20158C1 **Senator Michelle Stennett** explained that this legislation amended Idaho Code to allow for voluntary display of the POW/MIA flag.

MOTION **Senator Winder** moved, seconded by **Senator McGee**, to print **RS20158C1**. The motion carried by **voice vote**.

ADJORN **Chairman McKenzie** adjourned the meeting at 10:40 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 31, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1007</u>	Relating to Labor Organizations	Senator Monte Pearce

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 31, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:08 a.m.

S 1007 Relating to Labor Organizations. The Fairness in Contracting Act amends Chapter 20, Title 44, Idaho Code, by adding a new section that prohibits wage subsidies through Job Targeting/Marketing funds.
Chairman McKenzie asked Brian Kane from the Attorney Generals Office to explain the legal opinion of S 1007 from the viewpoint of the State.

Brian Kane, Deputy Attorney General, explained they had put together a memorandum describing two different scenarios in order to assist the legislators on making the best policy decision, which would be reviewed by Clay Smith, Deputy Attorney General in the Civil Litigation Division. **Mr. Smith** explained that in the first scenario, an employee believes they are being discriminated against because they failed to pay a wage subsidy. In the second scenario, and most likely situation, if a union and a contractor agree to an otherwise unlawful rebate, a competitor would have a right of action under S 1007 if the competitor establishes constitutionally-based standing to bring the lawsuit. **Chairman McKenzie** requested under those scenarios could Mr. Smith discuss what their analysis was with respect to whether there will be something we could successfully defend under those facts. **Mr. Smith** stated in the first scenario where the employee claims they have been discriminated against and if the employee wanted to sue on the statute there is a good likelihood that suit would be preemptive by the Operationally Nationality Liberties (Realities) Act, unless the wage subsidy were deemed in the form of dues subject to section 14(b) of the National Labor Relations Act. If the wage subsidy were held to pay dues for the purpose of coverage under 14(b), then they believe the employee would have remedies under our right to work statute. In respect to the competitor situation, their analysis states that if the competitor files a lawsuit seeking relief under S 1007, what is likely to happen is that the Labor Organization would file an unfair practice charge, alleging the lawsuit constituted a non-prior legal practice charge. **Chairman McKenzie** questioned if the protection of the state policy depends upon the decision of the NLRB, as to whether or not it would be preemptive or not, how does the state protect its policy interest in the ability to enforce S 1007 if it became law? **Mr. Smith** replied the only way you could is to legislate.

Senator Davis stated in the event that S 1007 became law and there was misconduct by the unions under the provision of S 1007 and a contractor files suit seeking some form of injunctive relief; what I understand from your comments is that the statute itself is not necessarily preemptive as a matter of law, but rather the union may file some form of grievance or complaint with the NRLB. Is that correct? **Mr. Smith** responded "yes." **Senator Davis** continued, at that point in time should the NRLB choose to engage they have primary jurisdiction over this area of law, so when they do this Idaho's courts will be preemptive from addressing how to proceed forward until they choose whether or not to act? **Mr. Smith** stated that was correct. **Senator Davis** stated should they choose to engage and procedurally move forward then that would stay or cause a dismissal of the state court cause of action. Again dealing with the jurisdictional issues not on the merits of the enforceability of S 1007. Should they find a violation under the Davis Bacon Act then does the State of Idaho have the ability to step forward and defend itself on the policy reasons behind S 1007? In the event the NRLB chooses to make a declaration and believes as a matter of federal law that we are not substantively preemptive, than would that allow the state courts in Idaho to reengage and proceed forward with whatever lawful remedy the contractor has asserted. **Mr. Smith** replied that was correct.

Judd Lees, Williams, Kastner & Gibbs, stated he continues to believe that the Idaho Legislature's 1985 exercise of its right under Section 14(b) of the National Labor Relations Act to enact Code Sections 44-2001, 2002, 2003, 2004, and 2005, coupled with the negative effect job targeting programs has on Idahoans' right to work, provide the necessary state interest to shield S 1007 from a preemption challenge.

Senator Davis questioned if Mr. Lees saw a path forward for the State of Idaho to participate in defending its public policy? **Mr. Lees** stated there was no process for participation at the regional level, but often times the National Relations Board, when it deems that there is an issue of sufficient importance then they will take briefing on this issue and would allow participation for whoever would like to make comments.

Chairman McKenzie stated the purpose of this meeting was to address legal considerations in preemption issues, and not necessarily the merits of the bill.

In closing, **Senator Pearce** thanked the committee for the time invested in this piece of legislation, and the purpose behind S 1007, is to level the playing field for Idaho workers and contractors. This bill is about freedom and protecting our work force, and it enables the State of Idaho to enforce right to work.

MOTION

Senator Fulcher made a motion to send S 1007 to the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. **Senator Malepeai** stated he felt uncomfortable with the direction they were heading if they passed this legislation. **Senator Malepeai** made a motion to hold S 1007 in committee. **Senator Stennett** seconded the motion. The substitute motion failed by a roll call vote. **Senators Malepeai and Stennett** voting aye. The original motion passed by roll call vote, and will be sent to the Senate floor with a do pass recommendation.

ADJOURNMENT There being no further business, **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of Senate

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 02, 2011

SUBJECT	DESCRIPTION	PRESENTER
	<u>Presentation</u> Briefing on the Idaho National Laboratory	Rick Provencher, Department of Energy-Idaho Manager
	<u>Presentation</u> State Land Board - <i>Idaho Endowment Trust Lands: The Next 100 Years</i>	George Bacon, Secretary to the State Board of Land, Director State Department of Lands and Kathy Opp, Deputy Director State Department of Lands

MINUTES APPROVAL

January 17, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 02, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman McKenzie** called the meeting to order at 8:02 a.m. and welcomed guests.

PRESENTATION: Briefing on the Idaho National Laboratory: **Brian Whitlock**, Battelle Energy Alliance, Idaho National Laboratory (INL), introduced **Rich Provencher**, Manager, Idaho Department of Energy. **Mr. Provencher** presented the Briefing on the Idaho National Laboratory. He stated the cleanup of the Department of Energy's (DOE) Idaho site has been meeting expectations from 2005 until now. The goal is to have shrunk the area 92% by 2015. They are taking down old buildings, digging up waste, closing underground tanks, and removing transuranic waste from Idaho. Over the last 3 years additional stimulus money was given for the cleanup, totalling around \$460,000,000. From 2005 to 2011 the cleanup site has gone from 774 acres to 247 acres. The reduction in DOE's Idaho site will save around \$2 billion in the site's lifetime.

Mr. Provencher showed the Committee a graph titled "Funding for Nuclear Energy Research and Development." It shows that funding for nuclear energy research and development has grown significantly in the last 10 years. The four goals established for nuclear research and development are to extend the life of current reactors, develop improvements in the affordability of new reactors, develop sustainable nuclear fuel cycles, and minimize the risks of nuclear proliferation. A new development for nuclear energy is an agreement with the State of Idaho that allows research and development on small quantities of used commercial nuclear fuel. This will allow INL to be a major player in the development of better and safer commercial nuclear fuel. There is a new type of reactor called a small modular reactor. They have a smaller per unit cost, potentially simplified licensing process, and advantages in nonproliferation.

Mr. Provencher stated the National Defense Authorization Act, signed this January, authorizes DOE to establish "energy parks," to build innovative energy projects at DOE sites like INL in consultation with local government. These energy parks are hoped to carry out projects related to the development and deployment of energy technologies, set national examples for the development of energy technologies, and create a business environment that encourages collaboration between the public and private sectors.

Mr. Provencher stated the Idaho site has a Ten-Year Site Plan that will attain new capabilities, revitalize existing capabilities, and upgrade related utilities and supporting infrastructure. Some of the new facilities DOE is hoping to bring on include the Radiological and Environmental Sciences Laboratory, the Advanced Test Reactor (ATR) Life Extension Program, and the Transient Test Reactor Restart. The goals of the research programs include nuclear energy, homeland and national security, and energy/environment. These research activities are spread across three main areas: the Research and Education Campus, the Materials and Fuels Complex, and the Advanced Test Reactor Complex.

Mr. Provencher noted that INL and DOE are partners with Idaho schools through internships, mini-grants, technology, outreach, and tutoring. The goal is to get the next group of nuclear engineers educated. The INL site also gives economic contributions to the state.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

Senator Davis asked what the yellow area on the graph, Funding for Nuclear Energy Research and Development, from the presentation signified. **Mr. Provencher** answered it represents the Nuclear Program Funding. **Senator Stennett** asked what type of commercial waste is used for research projects and where it comes from. **Mr. Provencher** answered used commercial nuclear fuel. He stated that it comes from various sources such as the Areva company. **Chairman McKenzie** asked how stable the plan to have more reactors is considering the process you have to go through to get them. **Mr. Provencher** replied that it is a goal, and will take help from the federal government, as well as streamlining of current processes. **Senator Davis** asked **Mr. Provencher** to clarify on what is an energy park. He responded that an energy park is a site that does advanced research and development on nuclear technology. **Senator Davis** asked if the Idaho Site was designated as an energy park would it impact the relationship with Areva. **Mr. Provencher** responded that it could have some benefits depending on how involved Areva would like to be.

Senator Winder asked what could be done to encourage students to continue to graduate with math and science degrees. **Mr. Provencher** replied that ensuring jobs would be available for students with those degrees would help. **Senator Winder** asked **Mr. Provencher** if he was aware of the technology transfer happening and labs trying to move away from the private sector. He replied yes, they are doing the research and development to invest in an area that private industry cannot. The objective is to pursue technology transfer. **Senator Hill** asked how close small modular reactors were to being produced. **Mr. Provencher** responded that the designs for small modular reactors are being developed and they may be expensive at first. **Senator Hill** asked if DOE is preserving any historic buildings at the INL site. **Mr. Provencher** answered that they are demolishing the old or deteriorated buildings but preserving their history.

Chairman McKenzie thanked **Mr. Provencher** for his presentation and for all INL does for the State of Idaho.

PRESENTATION: State Land Board - Idaho Endowment Trust Lands: The Next 100 Years: **George Bacon**, Secretary to the State Board of Land, Director of State Department of Lands (IDL), and **Kathy Opp**, Deputy Director, IDL introduced the State Land Board - Idaho Endowment Trust Lands presentation. **Mr. Bacon** noted the purpose of endowment trust lands and how they should be managed is stated in Idaho Code. Endowment trust lands differ from other state and public land because they have a clear mission with loyalty to the trust, maximize financial returns to specific trust beneficiaries, and the public use cannot constrain the primary mission.

Ms. Opp stated to shape the goals for the future of land endowment trusts they must look at the past. She presented a chart to the Committee that showed IDL's Timberland Asset. Timberland has and will continue to be a core asset for the trust. The Board will try to strengthen this contract in the coming years. The Timberland Assets earn \$43,000,000 per year and contains 1 million acres. The other assets, or non-timber acres, earn \$5,000,000 per year and contain 1.4 million acres. The non-timber acres are comprised of agricultural assets, rangeland assets, and commercial assets. The strategic plan for non-timber acres is to enhance performance of existing non-timber assets and transition and grow commercial income producing assets. Commercial assets have the highest return rates.

Ms. Opp stated that constitutional changes are needed to keep up with modern business methods. Public auction requirements and acreage limitation are out of step with business transactions and reduce opportunities to add value for beneficiaries, and the current structure makes it difficult to diversify investments which creates more risk to the endowment lands and beneficiaries. The portfolio performance shows the need for flexibility and focus. Distributions can be doubled without increasing taxes for citizens in Idaho by contracting for services and redirecting the focus of existing staff. **Ms. Opp** presented the Committee a graph showing how the portfolio could change within 10 years with focus and the right tools.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

In response to questions from the Committee, **Ms. Opp** noted that the Idaho Constitution requires the Land Board to fulfill its judiciary duties consistent with all the laws applicable in the State of Idaho. The prudent investor act applies to all trusts in Idaho and requires the trustee to examine the assets of the trust as a whole, the income generating needs, goals and objectives for the beneficiaries, and need for diversification. **Vice Chairman Fulcher** asked where the Board acquires the authority to expand the asset base of lands. **Mr. Bacon** replied the IDL has land that was granted to them that remain undeveloped because the traditional uses for the lands no longer exists in the area. The maintenance of these lands costs the trusts. For this reason, the land is developed to maximize income. **Senator Davis** acknowledged that Article 9, Section 7 of the Idaho Constitution states the Land Board "shall have the direction, control, and disposition of the public lands of the state", which may give the Board the authority. The Committee discussed the legalities of the Land Board and their authority to diversify the assets of the lands granted to them and concluded that it was within constitutional boundaries.

Vice Chairman Fulcher asked **Ms. Opp** to consider that with this ongoing diversification the private sector cannot compete with the State. The State will have an advantage. **Ms. Opp** stated that she believes it was contemplated that the state would add to the diversification of the portfolio through commercial properties when the state went through endowment reform in 2000. **Senator Winder** stated that he also had a concern about the competition between the State and private companies and suggested looking at what changes would be necessary to remove the judiciary responsibility to maximize returns. **Mr. Bacon** suggested the Board look at changes to reduce competition between the State and private companies. **Senator Davis** noted that private companies are logging on state land and asked if part of the concern is because the State will now be able to be the actual business operator. **Mr. Bacon** answered that the state and private companies hold the same risks and are very similar. When it comes to commercial business opportunities they are not looking to own and run, they will lease land for someone else to use. **Senator Davis** stated that there is a difference between leasing the land for someone to use and leasing the land as a storage facility. **Mr. Bacon** answered that IDL is leasing the land for someone else to utilize. **Senator Hill** asked if IDL

leased storage units to one party who then finds customers for individual units, or if they operate the facility. **Mr. Bacon** replied IDL owns the facility and contracts for management but there are no employees. Through the management companies, IDL leases individual units. **Senator Hill** asked if the management company IDL contracts with does this with other companies. **Ms. Opp** answered yes they manage other facilities for private investors.

Chairman McKenzie thanked **Mr. Bacon** and **Ms. Opp** for their presentation.

MOTION: **Senator Stennett** moved, seconded by **Senator McGee**, to approve the January 17, 2011 minutes as written. The motion carried by **voice-vote**.

ADJOURNMENT: There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 9:37 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

Alyssa Horton
Assistant Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 04, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20314</u>	Relating to the POW/MIA Flag - Amend Idaho Code to provide instruction for the display of the POW/MIA flag on or in front of public buildings.	Senator Michelle Stennett
<u>S1041</u>	Relating to the Idaho State Lottery - to amend and clarify Idaho Code pertaining to the Idaho State Lottery	Jeff Anderson, Director Idaho State Lottery
<u>RS20288</u>	This legislation will codify common law by making it illegal to assist in the suicide of another.	Senator Russell Fulcher

MINUTES APPROVAL

January 19, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 04, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:** Senator Davis

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8 a.m.

RS20314 **Relating to the POW/MIA Flag.** **Chairman McKenzie** introduced **Senator Stennett**. **Senator Stennett** said the original information that was given related to the placement of the POW/MIA flag was wrong, so this RS is to make a correction for proper placement.

MOTION: **Senator McGee** made a motion to print **RS20314**. **Senator Lodge** seconded, and the motion carried by Voice Vote.

S1041 **Relating to the Idaho State Lottery-to amend and clarify Idaho Code pertaining to the Idaho State Lottery.** **Chairman McKenzie** introduced **Jeff Anderson**, Director of the Idaho State Lottery.

Mr. Anderson said this bill cleans up obsolete language.

Senator Winder asked why there will no longer be a CPA to monitor the number drawing. **Mr. Anderson** said in the beginning a ball machine was used where the balls would bounce around and prior to every draw we would ensure that all balls were available, they were clean, they were weighed and the machine was operating properly. The results were then recorded and audited by certified public accountants. With the new random-number generator process, there is nothing for an auditor to do because there is now a digital audit trail and there is a draw manager there, a security guard and everything is videotaped. The random-generator is standard operating procedure in lottery systems now. Most lotteries use random-number generators for the instant games. Ball machines are much more expensive and take more time to operate.

MOTION: **Senator Hill** made a motion to send **S1041** to the floor with a Do Pass Recommendation. **Senator McGee** seconded, and the motion carried by Voice Vote.

RS20288 **This legislation will codify common law by making it illegal to assist in the suicide of another.** **Chairman McKenzie** introduced **Vice Chairman Fulcher**. **Vice Chairman Fulcher** said this bill would clarify the current practice and the current standard of care in the state of Idaho in dealing with assisted suicide. The attorney general's opinion states that Idaho does not currently have a statute that makes assisted suicide a crime. This legislation is based on the Kentucky model. There is a list in the bill that states what is not included under this legislation.

Senator Stennett asked what a "right" to assisted suicide would be. **Vice Chairman Fulcher** replied the statement is directed to the entity that is actively working to establish such rights in different states.

MOTION: **Senator Hill** made a motion to print **RS20288**. **Senator Winder** seconded, and the motion carried by Voice Vote.

MOTION: **Senator Hill** made a motion to approve the minutes of January 19, 2011. **Senator Winder** seconded, and the motion carried by Voice Vote.

Chairman McKenzie adjourned the meeting at 8:15 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 07, 2011

SUBJECT	DESCRIPTION	PRESENTER
	<u>PRESENTATION</u>	
	Annual Report by the Idaho Statewide Interoperability Executive Council (SIEC)	Mark Lockwood, Chairperson, SIEC
	<u>PRESENTATION</u>	
	E911 Emergency Communications Commission Annual Report	Garret Nancolas, Chair

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 07, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, and Stennett
ABSENT/EXCUSED: Senator Malepeai
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:03 a.m.

PRESENTATION Annual Report by the Idaho Statewide Interoperability Executive Council (SIEC)
Mark Lockwood Chairperson SIEC, explained the SIEC was formed in 2003 and organized in 2004 as the interoperable communications governing body charged with preparing Idaho's emergency response community for changes to Land Mobile Radio (LMR) communications being dictated by the Federal Communications Commission (FCC) following the tragic events of September 11, 2001. The Idaho Bureau of Homeland Security, as the State Administrative Agency, has awarded the SIEC over \$10.9 million dollars for statewide interoperable communications equipment, training and governance over the past five year period.
In 2010 the SIEC partnered with the six newly established District Interoperability Governance Boards (DIGBs) and continued collaborative shared-resource planning for operations, maintenance and sustainability of the statewide public safety emergency communication system.
System Facts for 2010:
- Twenty-one million "Push-to Talk" actions by emergency response personnel on the system.
- Thirty-seven thousand hours of voice air time.
- Almost ten thousand hours of over-the-air programming was completed; this process was traditionally accomplished by hand.
- Eighteen percent of the system is currently being used to date.
Senator Winder questioned if there are areas around the state where responsibilities overlap and are there benefits to that kind of situation? **Mr. Lockwood** responded there are areas in Northern Idaho where responsibilities overlap between Spokane County and Kootenai County. Those counties have entered into cooperative agreements, and are sharing redundant microwave waves that go into the Tri-Cities. Working with other states is beneficial to all involved.

PRESENTATION Annual Report by the Idaho Emergency Communications Commission

Mayor Garret Nancolas, Chairman, explained the mission of the Idaho Emergency Communications Commission was to enhance Idaho's public health, safety, and welfare by assisting emergency communications and response professionals in the establishment, management, operations, and accountability of consolidated emergency communications systems. Mayor Nancolas explained the Committee identified three projects in order of importance that they wanted to accomplish. They are as follows:

1. Establish standard entry-level training for dispatchers to meet Idaho Peace Officers Standards Training (POST) guidelines for certification for use by all Public Safety Answering Points (PSAPs). This training will be available in workbook format and on compact disc.
2. Prepare seminars for PSAP development for supervisors and managers to cover a range of topics ranging from systems integration, procurement processes, PSAP center scheduling, to hiring and recruiting and other topics as needed.
3. Establish a community awareness and public education campaign centered on the importance of the role of the 9-1-1 dispatcher and the 9-1-1 center.

ADJOURNMENT There being no further business **Chairman McKenzie** adjourned the meeting at 8:37 a.m.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of Senate

**AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 09, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20179C1</u>	This resolution amends Article 3 of the Idaho Constitution, relating to sessions of the Legislature, to limit legislative sessions to 80 calendar days.	Senator Steve Vick
<u>H 15</u>	Currently, Section 67-4402(2), Idaho Code, requires approval of the Board of Examiners for the Lava Hot Springs Foundation to lease land to a third party. Section 67-4406, Idaho Code, states the Board of Land Coimmissions and the Lava Foundation Board are authorized to negotiate for and enter into an agreement of lease. The redundancy of the statute necessitates duplication of effort and increased staff time by the agency, Attorney General's Office, and the respective boards.	Mark Lowe, Lava Hot Springs Foundation
<u>S 1042</u>	The purpose of this bill is to make various codifier corrections to the Idaho Code.	Mike Nugent, Research and Legislation
<u>RS20041C1</u>	During the 2010 Legislature, Section 59-105, Idaho Code, was discovered to be out of date as it had a reference (Section 59-503) that was no longer in existence. This legislation is intended to modernize this Section to provide that statewide elected officials may occupy subject to the rent as calculated by the Department of Administration, the offices provided for them respectively in the Capitol Mall Complex.	Mike Nugent, Research and Legislation

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 09, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:04 a.m. with a quorum present.

RS20179C1 The resolution amends Article 3 of the Idaho Constitution, relating to the Legislature, to limit legislative sessions to 80 calendar days.

Senator Vick presented the resolution. He stated that in order to continue to have a citizen legislature, it is important to limit the amount of time that the legislature can meet. A citizen legislature attracts a wide variety of people, but, it is harder for people to make the commitment to be a legislator. If there are time constraints legislated, legislators would learn to get the work done, then leave. It would be a hard change to make, but once people got used to it, they would find it works well.

Senator Stennett stated she had concerns about putting constraints on something that may or may not be within your control. There may be a need for more time, such as in a difficult budget year. She asked **Senator Vick** whether the resolution addresses those unforeseen events. He responded that Article 3 Section 9 of the Constitution allows the Governor to call a special session of the Legislature. There is also provision for an extra session in the Constitution. The Governor can call a special session before the regular session is over so that legislators do not go home and then have to return, making it a more fiscally responsible decision.

MOTION **Senator Davis** moved, seconded by **Senator McGee**, to print the resolution. The motion carried by voice vote.

H 015 **Mark Lowe with Lava Hot Springs Foundation** stated House Bill 15 is intended to improve the efficiency of State government. Lava Hot Springs Foundation administers state ground in and around the City of Lava Springs and is able to lease out portions of the property that is not being utilized by the State at any given time. Any lease agreement approved by the Board of Directors of the Foundation then goes to State Board of Examiners and then the State Land Commission.

Mr. Lowe stated that the only difference between the Board of Examiners and the State Land Commission is that the Superintendent of Public Instruction is not on the Board of Examiners. The legislation proposes to strike that section that requires approval by the Board of Examiners using this process, thereby reducing their staff time and Foundation time by having to come and present to the Board.

Senator Malepeai asked **Mr. Lowe** to provide history as to why the Board of Examiners is part of the statute. **Mr. Lowe** responded that he did not know. **Senator Malepeai** asked for clarification of the Board of Examiners role. **Mr. Lowe** deferred to **Wayne Hammon** to respond.

Wayne Hammon, Administrator with the Division of Financial Management, addressed the Committee. **Mr. Hammon** stated that he is the Governor's representative to the Board of Examiners. He explained the Board of Examiners is chaired by the Governor and includes the Secretary of State and the State Attorney General. The State Controller serves as the Secretary to the Board, but does not vote. The three voting members of the Board are also voting members of the Land Board. The State Controller and the Superintendent of Public Instruction are also members of the Land Board. **Mr. Hammon** stated that the review function of the Board of Examiners is to review claims against the State. The Board also handles budgetary issues when the Legislature is not in session. The Board also reviews a wide variety of contracts. The Board has reviewed Lava Hot Springs Foundation leases for a long period of time. **Mr. Hammon** stated that for a long time those contracts and leases had to go to the Land Board. However, that step is not always followed. The Attorney General ensures statute is followed. In four years only one lease was brought over. Of the six leases in the last ten years, not one has been contested or had testimony before the Board either for or against. It requires three trips from Lava to Boise: one for the Board of Examiners subcommittee; one for the Board of Examiners; then the Land Board. **Mr. Hammon** stated that before the bill was printed, it was shared with each member of the Board of Examiners as well as the Secretary and all four offices have signed off on it and are supportive. **Senator Davis** stated that sometimes there is value in review, in knowing it is going to be reviewed. He asked in making this type of change what confidence the Legislature can have in the review process? **Mr. Hammon** agreed that the review process is a necessary function, with perhaps the exception of the Governor's Office. The Board of Examiners and the Land Board matter, but in the other three offices the same staff is handling the assignments. The statute requires, even with this change, that each of these leases go before the full Land Board for review. **Mr. Hammon** stated he is confident a full review will take place, but will just take place before the Land Board and not the Board of Examiners.

George Katsilometes has owned Lava Hot Springs Inn and Spa over 21 years. **Mr. Katsilometes** stated he is against the removing the check and balance related to the leased properties. He is a member of the Chamber and helped write the bylaws of the Chamber. **Mr. Katsilometes** is concerned that we not grant a lease such as the one granted to the service station that was placed above the hot springs which eventually leached oil and gasoline into the hot pools in the 1980s. He feels there should be a greater scrutiny with how the Foundation deals with the properties and lands that are public. **Mr. Katsilometes** stated we are never asked as a Chamber or a City to comment on the leases or make suggestions when it comes to the State Foundation functions. They operate independently. They control only the north side of the Portneuf River, and the flow from the big spring there. **Mr. Katsilometes** reviewed the Idaho Code, Chapter 44, where it specifies that the Board of Examiners must review any lease or transition or transfer lands or property in and around Lava that the Foundation controls. It also says the Land Commission must also review any use of the land. The two entities have divergent functions and the Board of Examiners is a legal review. The Land Commission looks at whether it is the best use of the land for the people of Idaho. Those who wrote the law knew it should be difficult, with significant review. We want the resource protected. **Senator Davis** stated the language that is being removed says subject to approval by the Board of Examiners, but would still be subject to review by the Land Board. **Senator Davis** asked **Mr. Katsilometes** his understanding and whether it relieves his concerns? **Mr. Katsilometes** stated it does not relieve his concerns. The people, who work in free enterprises in Lava in the tourism

business, want a check and balance on what the Foundation does. He would like to see them include the Chamber of Commerce and the City Council because it impacts businesses so greatly.

Evelee Hill Rush is a private hotel owner of the Oregon Trail Lodge. There has been no new construction in the hotel industry in Lava since the 1930s. She stated the Foundation is the primary player to bring in any more tourism because they hold the large parcels of ground and river sites. She reviewed the 2010 minutes of three meetings held and there was never any discussion of House Bill 15, and feels like that is a lack of transparency. Not coming before the Chamber of Commerce and the City of Lava is a lack of transparency. **Ms. Rush** would like to see the Foundation be a partner and help Lava become a destination resort. Lava was not notified nor received any information about House Bill 15. They found out about the bill via a newspaper article. She emphasized the need for partnership with the Foundation.

Based on statements by **Ms. Rush** that she could not find where the Foundation Board discussed this legislation, **Senator Davis** asked **Mr. Lowe** whether the Board formally approved a request that this legislation be brought before the Legislature? **Mr. Lowe** stated "no they did not." **Senator Davis** asked whether **Mr. Lowe** was here on behalf of the Lava Hot Springs Foundation. **Mr. Lowe** stated he served at the pleasure of the Board to oversee the operations of the Foundation. **Mr. Lowe** stated that the issue of efficiencies came up through discussions with the Attorney General's Office and the Governor's Office. **Senator Davis** asked **Mr. Lowe** whether the Board should consider, make a recommendation, and authorize bringing the legislation. **Mr. Lowe** stated it was discussed but was not a formal agenda item. The Board is required to meet once a year, and may meet more. The process of making proposals begins in June or July and **Mr. Lowe** said it was an oversight that it was not brought before the Board.

Senator Davis addressed the statute requirements on lengths of leases. There are various options for leases, and he thinks part of the reason for the 99-year policy is that it provides an extra layer of protection which requires review by the Board of Examiners to enter into a lease and do something contrary to the other public policies of the state.

Mr. Hammon stated he asked the Attorney General's office but received no definitive answers. He said that as a practical matter, the review done by the Board of Examiners and the review done by the Board of Land Commissioners are done by the same staff and the same people vote on them. **Senator Davis** stated he could not find a statutory standard requiring Land Board review and approval. He asked whether there is another statute where it can be found. **Mr. Hammon** stated that 67-4406 contains the land review language. He read that section for the Committee.

Chairman McKenzie stated the statute language could be interpreted to indicate that the Board of Land Commissioners is delegated the authority to Lava Hot Springs and maybe that is why there has not been separate review. He asked whether the language in 4402 is clear, requiring a separate review by the Land Commissioners. **Chairman McKenzie** also asked whether there would be value in clarifying the language in 4402, or is it clear in 4406. **Mr. Hammon** stated he understood from the Attorney General's Office that "and" means "both." It requires review by both the Land Commissioners and the Board of Examiners. He indicated that the conflict, if there is one, deals with what **Senator Davis** referred to in 4402 where properties are exempt from 58-307, and then in 4406 it returns them to the same requirement. **Senator Davis** stated that "and" can mean "more" and "more" can mean "and." He stated it can be confusing and worries that we are pushing away from our predecessors' thoughtful inclusion. He thanked **Mr. Hammon** for his help. **Mr. Hammon** stated there are two legislators that are former Foundation board members and both spoke in favor of the bill.

Senator Stennett stated it seems the disagreement has been a lack of communication among the stakeholders. She asked whether it was typically only the Foundation's responsibility to inform people of the consequences of what they do on the ground, and whether the business owners trust the Foundation or be involved in all the decisions. **Mr. Lowe** stated the Foundation board is made up of five members and the meetings are advertised and open to the public. The new leases are advertised and input solicited. Records are all public records.

MOTION **Chairman McKenzie** asked whether there was a motion on the bill. **Senator Malepeai** stated it seems that given the questions about the bill we should keep the current process in place. **Senator Malepeai** made a motion that the bill be held in Committee, seconded by **Senator Stennett**. There was no further discussion. The motion carried by voice vote.

S 1042 **Chairman McKenzie** stated that S1042, Codifier's Corrections, was before the Committee and **Mike Nugent** was present to explain the changes.

MOTION **Senator Davis** made a motion to send the bill to the Senate Floor. **Mike Nugent** explained briefly that the bill makes corrections, adjustments, and cleans up statutes. It is done every year. With no further discussion, **Chairman McKenzie** called for a vote. The motion carried by voice vote.

RS20143C1 **Mike Nugent** stated the bill was before the Committee two weeks ago. It was returned for research on the term Capitol Mall Complex. Statute uses the term Capitol Mall and the term was changed in the RS. The RS is intended to modernize the statute and noted that the Superintendent of Public Instruction and Controller have not been in the Capitol Building for 30 years.

MOTION **Senator Davis** moved to print the RS, seconded by **Senator Lodge**. The motion carried by voice vote.

ADJOURN **Chairman McKenzie** adjourned the meeting at 8:59 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 11, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>GUBERNATORIAL APPOINTMENT</u>		
Idaho State Racing Commission		
Paul J. Schneider, serving a term commencing April 22, 2010 and expiring January 15, 2016		
<u>H 34</u>	Relating to the Capitol Commission - Updates the statutes governing the Idaho Capitol Commission now that the Capitol Restoration and Expansion project is complete	Representative Hartgen
<u>S 1071</u>	Relating to the POW/MIA Flag - Amend Idaho Code to provide instruction for the display of the POW/MIA flag on or in front of public buildings.	Senator Stennett
<u>H 60</u>	This legislation makes technical corrections to the Election Consolidation Legislation (H 372) passed and signed into law in 2009.	Tim Hurst, Secretary of State office

MINUTES APPROVAL

January 24, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 11, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:03 A.M.

Gubernatorial Appointment

Idaho State Racing Commission

Paul J. Schneider, serving a term commencing April 22, 2010 and expiring January 15, 2015

Mr. Schneider summarized his education and experience for the Committee. He earned a journalism degree in 1966 from the University of Idaho. **Mr. Schneider** has been in broadcasting in the Boise area since 1967, including working at Les Bois Park for 27 years. Much of that time he was announcing for the Park.

Chairman McKenzie stated that vote on the confirmation will occur at the next Committee meeting, as is Committee standard practice.

H 34

Relating to the Capitol Commission. Updates the statutes governing the Idaho Capitol Commission now that the Capitol Restoration and Expansion project is complete.

Representative Hartgen stated The Capitol Renovation Project was run by government, brought in on time and under budget. Now the Agency responsible comes to the Legislature and is asking to reduce its functions and its presence because the project is complete. The Capitol has been utilized to capacity the past few weeks with public hearings on Education, Medicaid, and Nullification. This building is demonstrating its usefulness. The Capitol restoration was \$83 million. The Wings on either end cost another \$37 million. The total was \$127 million including furnishings, but the project came in at \$123 million. Hundreds of people and families toured the renovated Capitol at the re-opening and the building has once again become the "people's house." This bill is a cleanup of the Capitol Commission statute. In the late 1990's Governor Batt created a commission and master plan for renovation of the Capitol. With the renovation now complete, the bill proposes that the Commission schedule be reduced to meeting twice a year and retain its essential function which is to oversee, manage, and keep an eye on uses and protocols of the building in cooperation with the Department of Administration and the Idaho Historical Society. The Capitol Curator is an employee of the Idaho Historical Society, and works closely with the Commission and the Department of Administration to oversee the building. The bill states how the Commission

works cooperatively with the Historical Society. The bill eliminates the position of Capitol Architect.

Jeff Youtz, Director of Administrative Services, was available for questions. **Mr. Youtz** explained that for scheduling rooms, the Senate makes the decisions on Senate wing and the House makes the decisions on the House wing. For the Rotunda area, the decisions are made jointly with leadership of both Senate and House. By agreement the Senate controls the Auditorium.

Senator Lodge asked what occurs when a group has scheduled the Auditorium months in advance and then crowds come for hearings, what is the process for use of the auditorium. **Mr. Youtz** stated that the Legislature trumps other events. So far, those situations have been handled. **Senator Hill** stated that organizations are told at the time of room reservation that is how the reservations are handled.

Senator Davis addressed Title 7 Chapter 16 which gives the Legislature control of the space. He is troubled by adding the phrase “in cooperation with the Department of Administration” in the new language being proposed. **Senator Davis** wants confidence that the phrase does not impact the role of leadership of the Legislature with regard to the space. The Department of Administration provides administrative support for the Commission. The Executive Branch controls only the second floor.

Senator Hill questioned the reimbursement rate for Commission members.

Representative Hartgen responded that the rate itemized in the bill is the standard state rate.

MOTION

Vice Chairman Fulcher moved, seconded by **Senator McGee**, with do pass recommendation. Seeing no other discussion **Chairman McKenzie** called for vote. The motion carried by voice vote.

S 1071

Relating to the POW/MIA Flag, amends Idaho Code to provide instruction for the display of the POW/MIA flag on or in front of public buildings.

Senator Stennett stated that S1071 provides clarity on where the POW/MIA flag should actually fly in relation to other flags. The purpose of the legislation is to allow for voluntary display of the POW/MIA flag in the statute. This applies to the State Capitol, district court buildings, city/townhall buildings, and administrative buildings – anywhere the U.S. flag is displayed. The bill provides instructions for the proper use and display of the POW/MIA flag in relation to the U.S. flag and the State flag. For clarity, protocol states that if flown on one flag pole, the POW/MIA flag flies below the National colors and above the State flag. If flying on two poles it flies below the U.S. flag on the same pole, and the State flag on a separate pole. If there are three poles, the National colors occupy the place of prominence to the right, with the POW/MIA flag to the left of the U.S. flag and the State flag to the left of the POW/MIA flag.

Chairman McKenzie opened the floor for questions. **Senator Davis** asked whether there is a Federal statute on how to fly the POW/MIA flag. **Senator Stennett** responded that there is national protocol, and that it is always flown as stated.

Senator Hill asked whether we are reflecting Federal statute already in place – is there Federal statute that tells the states where we can fly the flag in relation to the POW flag? **Senator Stennett** had not been able to determine whether Federal statute actually exists, but stated we must follow Federal protocol. In order for the State to have statute or protocol we must be in line with Federal protocol. **Senator Hill** asked about the history of POW/MIA flag, including design and the jurisdiction under which it flies. **Senator Stennett** stated two nonprofits that became important entities during Vietnam War are still keeping public awareness of the POW/MIA issue, and work with the Veterans Administration.

MOTION

Senator Lodge moved, seconded by **Senator Hill** to approve S1071 and send to the Senate Floor with a do pass recommendation. The motion carried by voice vote.

H 60

This legislation makes technical corrections to the Election Consolidation Legislation (H 372) passed and signed into law in 2009.

Tim Hurst Secretary of State's Office stated H60 is presented as corrections to election consolidation Title 34 General Elections bill passed in 2009. Last year there were 13 pages of corrections. This bill has even more pages and consolidates dates of elections and procedures. Procedures are in Title 34. This removes procedures left in individual statutes and refers them to Title 34 the General Election Code. Section 1, page 2, deals with the election stabilization fund which was established and \$25 million was made available to the counties to be used through 2015, then is returned to General Fund in 2016. The fund is to be used by the counties as starter funds, but as written it is too restrictive. It currently states it can be used only for computer equipment and software. Some jurisdictions are not using GIS yet, and they need the ability to expand that section. The new language frees up funds so counties can use them. H60 clarifies confusion about dates. Page 10, reference to March, May, August, and November dates. It was intended that March and August dates be used for schools only to conduct bond/levy elections. Other entities were interpreting it in a way that would allow them to conduct voting. Regarding terms of office, most districts moved to even-numbered years and this clarifies how to make that transition. If elected to office prior to 2011 they will serve term of four years, then stand for election the next regular election. That could extend a term by six months to year for some people. This legislation standardizes declaration of candidacy on the ninth Friday before election. For the May election that is going to be March 18, sixty days before election. Withdrawal or write-in deadline is 45 days before election. Asking for retroactive date to January 1, 2011, **Senator Winder** referred to page 10, line 26, withdrawal from candidacy and election to partisan office and asked for clarification. **Mr. Hurst** explained the reason for that section is someone that has filed declaration of candidacy then withdrawn from office, it allows the county clerk to notify the county central committee through a party and they can fill that vacancy. **Senator Malepeai** asked for clarification on the March and August dates for school bond/levy elections, and whether those are the only dates schools can hold those elections. **Mr. Hurst** stated that schools can use any of the four dates, but only schools may use the March and August dates. **Senator Stennett** asked why the word recall was eliminated, page 10, line 6. **Mr. Hurst** stated that the next section deals specifically with recall elections.

MOTION **Senator Davis** moved, seconded by **Senator McGee**, that H60 be sent to the floor with a do pass recommendation. The motion was carried by voice vote.

Senator Stennett passed out information related to the history of the POW/MIA flag.

MOTION **Senator Lodge** moved that the minutes of the January 24, 2011 Committee meeting be approved, seconded by **Vice Chairman Fulcher**. The motion carried by voice vote.

ADJOURN **Chairman McKenzie** adjourned the meeting at 8:54 A.M.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 14, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>HCR 4</u>	This legislation would authorize the Legislative Council to continue an interim committee to undertake a study of energy, environment and technology issues and to monitor the integrated state energy plan.	Representative Eskridge
<u>GUBERNATORIAL APPOINTMENT</u>		
State Historic Preservation Officer		
Janet Gallimore, serving a term commencing January 3, 2011 and expiring January 5, 2015		
<u>RS20328C1</u>	This legislation removes "wine" from the definition of alcoholic liquor, and clarifies that wine is not liquor and is regulated pursuant to the County Option Kitchen and Table Wine Act rather than the Idaho Liquor Act.	Roger Batt, Idaho Grape Growers and Wine Producers
<u>RS20371</u>	This legislation restores language stricken in Docket No. 34-0501-1001, a rule of the Secretary of State relating to Rules Governing Farm Products Central Filing System.	Senator McKenzie

GUBERNATORIAL APPOINTMENT

Confirmation vote on Paul J. Schneider to the Idaho State Racing Commission

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 14, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8 a.m.

HCR4 This legislation would authorize the Legislative Council to continue an interim committee to undertake a study of energy, environment and technology issues and to monitor the integrated state energy plan. **Chairman McKenzie** introduced **Representative Eskridge**.

Representative Eskridge says this committee serves as a vehicle to keep legislators aware of energy activities by the federal government during the interim.

MOTION: **Vice Chairman Fulcher** made a motion to send **HCR4** to the floor with a Do Pass recommendation. **Senator Lodge** seconded, and the motion carried by Voice Vote.

GUBERNATORIAL APPT: **Chairman McKenzie** introduced **Janet Gallimore**, appointee to the State Historic Preservation Officer position. **Ms. Gallimore** said she has over thirty years experience in the area of cultural resource management.

Chairman McKenzie asked what role the State Historic Preservation plays on the energy corridor projects. **Ms. Gallimore** replied that the society works in conjunction with the Department of Energy and the Department of Endangered Species. There are seven projects in process. The society makes sure the cultural resource impact of these programs is mitigated or eliminated.

Senator Davis thanked **Ms. Gallimore** and the society for bringing the original Constitution of the State of Idaho to the Capitol.

RS20328C1 This legislation removes the word "wine" from the definition of alcoholic liquor, and clarifies that wine is not liquor and is regulated pursuant to the County Option Kitchen and Table Wine Act rather than the Idaho Liquor Act. **Chairman McKenzie** introduced **Roger Batt**, of the Idaho Grape Growers and Wine Producers. **Mr. Batt** said liquor, wine and beer are defined differently among the three existing statutes.

Senator Hill asked for clarification on the strike out of only wine manufacturers in Idaho being regulated. **Mr. Batt** said what is being done is to exclusively allow wine manufactured in Idaho to be considered table wine to be sold through the liquor division.

Senator Davis asked if wine is currently administered by the State Liquor Division or can a merchant contract separately for it. **Mr. Batt** said a merchant can separately contract for it; it is a three-tiered system it is usually sold from the manufacturer to the distributor to the consumer. Liquor is sold specifically through the liquor division. **Senator Davis** asked if this process was a change from when the legislation originated. **Mr. Batt** said it is not. The liquor division can sell wine if they choose to do so.

Senator Lodge asked if the percentage of alcohol in a common bottle of wine usually 10%-12%. **Mr. Batt** said it depends on the variety and sugar content. Most of the wines are between 13%-14%.

MOTION: **Chairman McKenzie** made a unanimous consent motion to return **RS20328C1** to the sponsor. The motion passed.

RS20371 **This legislation restores language stricken in Docket No. 34-0501-1001, a rule of the Secretary of State relating to Rules Governing Farm Products Central Filing System.**

MOTION: **Senator Davis** made a motion to send **RS20371** to print. **Vice Chairman Fulcher** seconded, and the motion carried by Voice Vote.

VOTE: **Senator Lodge** made a motion to send the confirmation of Paul J. Schneider to the Idaho State Racing Commission to the floor with a Do Pass recommendation. **Senator Malepeai** seconded, and the motion carried by Voice Vote.

ADJOURN **Chairman McKenzie** adjourned the meeting at 8:28 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 16, 2011

TIME: 8:00 A.M.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

RS20417 **Relating to Education:** **Senator John Goedde** stated this part of Idaho's Students Come First legislation relates to public school modernization and reform. The Idaho Legislature has a duty to ensure Idaho's schools are on firm financial ground. In the past two years, approximately \$200 million in state funds have been cut from Idaho's public school system. To ensure the state can educate more students at a higher level with limited resources, the state must reform and modernize the educational system. The Students Come First legislation reprioritizes statutory requirements to strategically invest in Idaho's educators and technology, and increases transparency for Idaho's public school system. **Senator Goedde** requested the Committee send **RS20417** to print.

MOTION: **Senator Davis** moved, seconded by **Senator Fulcher**, to send **RS20417** to print. The motion carried by **voice vote**.

RS20328C2 **Relating to Wine:** **Roger Batt**, Idaho Grape Growers and Wine Producers, stated this legislation removes "wine" from the definition of alcoholic liquor in section 23-105, Idaho Code, because wine is not liquor and is regulated pursuant to the County Option Kitchen and Table Wine Act in Chapter 13 of Title 23 (as provided in section 23-1302), Idaho Code rather than the Idaho Liquor Act. Section 23-203 is amended to provide that the state Liquor Division has the continued authority to buy, sell, import, transport, store and deliver sparkling wine and wines with alcohol contents over 16% by volume. Section 23-203 also grants the Division the authority to buy, import, transport, store, sell and deliver Table Wines exclusively manufactured by Idaho wineries. Section 23-1314 is amended to simplify reporting requirements and to make technical corrections. **Mr. Batt** requested the Committee send **RS20328C2** to print.

MOTION: **Senator Lodge** moved, seconded by **Senator McGee**, to send **RS20328C2** to print. The motion carried by **voice vote**.

RS20403

Relating to Abortion and the Insurance Contract: David Ripley, Idaho Chooses Life, stated the federal health care legislation signed into law by President Obama in March of 2010 (P.L. 111-148) will require the envisioned insurance exchanges to provide coverage for elective abortions unless the affected state chooses to "opt out" under the provisions of the Nelson-Reid Amendment. Idaho has a long-standing policy of prohibiting taxpayer funded abortions within the state unless the mother's life is at risk, or unless the pregnancy is the result of rape or incest. Nevertheless, this prohibition is insufficient to prevent a new federal insurance program from mandating taxpayer-subsidized coverage for elective abortions. P.L. 111-148 (the "Patient Protection and Affordable Care Act") requires a new and specific statute to prevent abortions from being provided under federalized health care. **Mr. Ripley** requested the Committee send **RS20403** to print.

MOTION:

Senator Davis moved, seconded by **Vice Chairman Fulcher**, to send **RS20403** to print. The motion carried by **voice vote**.

S1075

Relating to State Elected Officials: Mike Nugent, Division Manager, Research and Legislation, stated during the 2010 Legislature, Section 59-105, Idaho Code, was discovered to be out of date as it had a reference (Section 59-503) that was no longer in existence. This legislation is intended to modernize this Section to provide that statewide elected officials may occupy, subject to the rent as calculated by the Department of Administration, the offices provided for them respectively in the Capitol Mall Complex. **Mr. Nugent** requested the Committee send **S1075** to the floor with a do pass recommendation.

MOTION:

Senator Davis moved, seconded by **Senator Lodge**, to send **S1075** to the floor with a do pass recommendation. The motion carried by **voice vote**.

S1070

Relating to Homicide: Vice Chairman Fulcher stated a national effort is underway to create a "right" to assisted suicide. After successful efforts in Washington, Oregon and Montana, organizations are now targeting Idaho. According to a recent opinion from the Attorney General's office, Idaho does not currently have an effective and clear prohibition against physician assisted suicide, or "aid-in-dying." This legislation will supplement existing common law and statutory law by confirming that it is illegal to cause or assist in the suicide of another. In 1997, the U.S. Supreme Court found in *Washington v. Glucksberg* that assisted suicide is not a fundamental right under the federal constitution. The court also acknowledged the states' authority to legislate in this area of law. The proposed legislation is modeled after a Kentucky statute, which has been successfully in place since 1994. Approximately 30 states have codified bans on "aid-in-dying" or "assisted suicide." **Vice Chairman Fulcher** requested the Committee send **S1070** to the floor with a do pass recommendation.

Supported documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

TESTIMONY:

David Ripley, Idaho Chooses Life, spoke **in support** of **S1070**. He stated that there is a difference between knowingly and intentionally assisting suicide.

Senator Stennett asked about the individuals who do not have a living will and the fine line this legislation may draw which will affect physicians. **Mr. Ripley** responded that this legislation will provide greater protection for physicians than they previously had. **Senator Stennett** stated that she does not believe this legislation will protect anyone.

Hannah Brass, American Civil Liberties Union of Idaho, spoke **in opposition** to **S1070**. She stated physicians will risk imprisonment or loss of licensure without the documentation mentioned in section 6 of the bill.

Supported documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

Bob Aldridge, Attorney, spoke **in support** of **S1070**. He stated that if you have a living will it will be honored. This legislation is balanced, it protects the individuals right and protects the physicians.

Senator Stennett asked how a living will would be upheld if the individual specifically mentioned assisted suicide or mercy killing. **Mr. Aldridge** responded that it would be against public and hospital policy and would not be upheld.

Jason Herring, President, Right to Life of Idaho, Inc., spoke **in support** of **S1070**. He stated that this legislation is righteous and moral.

Supported documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3).

Julie Lynde, Executive Director, Cornerstone Family Council, spoke **in support** of **S1070**. She stated the fact that a person chooses to do something does not justify that right and this is a private decision. She stated that allowing physicians to assist in suicide is allowing them to kill individuals.

Supported documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 4).

Kerry Uhlenkott, Right to Life of Idaho, spoke **in support** of **S1070**. She stated that it is vital to ban assisted suicide.

Ken McClure, Idaho Medical Association, spoke **in support** of **S1070**. He stated that current law is not clear for physicians.

Senator Stennett asked if this legislation would take away an individuals rights and if this legislation should state that the physician will do the best they can to follow the wishes of the individual. **Mr. McClure** responded that the individual will have a right to deny medical treatment even if it will harm them. This legislation will ban physician assisted suicide only. In response to questions from the Committee, **Mr. McClure** stated this legislation will fit in with previous laws. A physician has the right to deny treating someone if they choose, but they must recommend someone else.

Sherri Brown, MD, Idaho Medical Association, spoke **in support** of **S1070**. She stated assisted suicide undermines trust and the physician-patient relationship.

Written support of **S1070** was given to the Committee from **Dustin W. Manwaring**, Attorney, Blackfoot, ID.

Supported documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 5).

MOTION: **Senator McGee** moved, seconded by **Senator Hill**, to send **S1070** to the floor with a do pass recommendation. The motion carried by **voice vote**.

RS20295 **A Concurrent Resolution:** **Senator Sheryl Nuxoll** stated this resolution commemorates the founding of Clearwater County one hundred years ago on February 27, 1911. **Senator Nuxoll** requested the Committee send **RS20295** to print.

MOTION: **Vice Chairman Fulcher** moved, seconded by **Senator McGee**, to send **RS20295** to print. The motion carried by **voice vote**.

Chairman McKenzie passed the Gavel to **Vice Chairman Fulcher** to present **RS20388**.

RS20388

A Concurrent Resolution: Chairman McKenzie stated this concurrent resolution states findings of the Legislature, urging the Secretary of Interior to abandon the "Wild Lands" Wilderness Re-Inventory and requesting the United States Congress to honor the longstanding commitment to multiple use management of public lands in Idaho and the Western United States, and transmitting a copy of this resolution to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to members of Idaho's Congressional Delegation. **Chairman McKenzie** requested the Committee send **RS20388** to print and then direct to the floor with a do pass recommendation.

TESTIMONY:

Wally Butler, Idaho Farm Bureau, spoke **in support** of **RS20388**. He stated that the Bureau fully supports this legislation and encourages that it be passed.

Senator Davis asked if the Wild Lands Initiative will restrict access completely to those lands. **Chairman McKenzie** stated that it would not preclude all uses but would restrict the use.

MOTION:

Senator Lodge moved, seconded by **Senator McGee**, to send **RS20388** to print and then direct to the floor with a do pass recommendation. The motion carried by **voice vote**.

Vice Chairman Fulcher returned the gavel to **Chairman McKenzie**.

**GUBERNATORIAL
CONFIRMATION
VOTE:**

Janet Gallimore, Boise, ID, was appointed as the State Historic Preservation Officer to serve a term commencing January 3, 2011 and expiring January 5, 2015

MOTION:

Senator Lodge moved, seconded by **Senator Stennett**, to send the appointment of **Janet Gallimore** as the State Historic Preservation Officer to the floor with a do pass recommendation. The motion carried by **voice vote**.

ADJOURNMENT:

There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 9:15 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 18, 2011

SUBJECT	DESCRIPTION	PRESENTER
Page Thank you and Page Introduction		
<u>GUBERNATORIAL APPOINTMENT</u>		
Idaho Commission on Human Rights Megan Ronk, serving a term commencing July 1, 2010 and expiring July 1, 2013.		
<u>RS20434</u>	This legislation bans the recording and collection of certain third-party transfer fee covenants (often called private transfer fees) on real property in Idaho. Currently, transfer fee covenants, once recorded, can result in transaction fees being imposed upon generations of unknowing purchasers. This legislation provides that a transfer fee covenant recorded on real property after the effective date of the legislation is not binding upon, or enforceable against, the affected real property.	Senator Russell Fulcher
<u>RS20248</u>	The purpose of this bill is to change sections of Idaho Code to create public policy to prohibit public sector collective bargaining, to provide for public employee rights and to prohibit public employee strikes.	Senator Shirley McKague
<u>RS20286</u>	This legislation eliminates two laws, Idaho Code 23-1326 and 23-1031, whose original purpose was to keep organized crime, which had taken control of the alcohol distribution business during prohibition, from extending outrageous credit terms to retail bars and sale outlets. This situation no longer exists and such laws are no longer needed.	Roy Eiguren, Northwest Grocery Association
<u>RS20451</u>	This resolution urges Congress to adopt the Madison Amendment. The Madison Amendment gives states the power to safely propose an individual Amendment to the U.S. Constitution without the risk of a runaway convention.	Senator Curtis McKenzie
<u>RS20429</u>	This legislation amends Idaho Code relating to carrying weapons.	Matt Dogali, NRA

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 18, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman McKenzie** called the meeting to order at 8:02 a.m. and welcomed guests.

GUBERNATORIAL APPOINTMENT HEARING: **Megan Ronk** was appointed to the Idaho Commission on Human Rights to serve a term commencing July 1, 2010 and expiring July 1, 2013. **Ms. Ronk** stated that she has served for two years and it is a pleasure to serve on the Commission again. She provided the Committee with a short biography of her professional and personal life.

Senator Hill asked if decisions made by the Commission were legally binding and how many cases reviewed by the Commission go to court. **Ms. Ronk** replied that she could not speak to the legal aspect, but the Commission is used as a first step in reviewing cases to determine if there is a claim of harassment or discrimination. **Senator Hill** asked if the Commission had attorneys and pursued legal action on behalf of the victims. **Ms. Ronk** responded yes, legal options are available. **Senator Stennett** thanked **Ms. Ronk** and the Commission for their work.

Chairman McKenzie thanked **Ms. Ronk** for appearing before the Committee and advised her that a vote on her appointment would be taken at the next meeting.

RS20434 **Relating to the Prohibition of Real Estate Transfer Fees:** **Vice Chairman Fulcher** stated this legislation bans the recording and collection of certain third-party transfer fee covenants (often called private transfer fees) on real property in Idaho. Currently, transfer fee covenants, once recorded, can result in transaction fees being imposed upon generations of unknowing purchasers. This legislation provides that a transfer fee covenant recorded on real property after the effective date of the legislation is not binding upon, or enforceable against, the affected real property. **Vice Chairman Fulcher** requested the Committee send **RS20434** to print.

MOTION: **Senator Davis** moved, seconded by **Senator Lodge**, to send **RS20434** to print. The motion carried by **voice vote**.

RS20248 **Relating to Public Employees:** **Senator Shirley McKague** stated the purpose of this bill is to change sections of Idaho Code to create public policy to prohibit public sector collective bargaining, to provide for public employee rights and to prohibit public employee strikes. **Senator McKague** requested the Committee send **RS20248** to print.

Senator Winder asked if **Senator McKague** wanted this RS to be printed for discussion purposes only and not to be brought forth during this session. She responded yes, that is the intent.

MOTION: **Vice Chairman Fulcher** moved, seconded by **Senator McGee**, to send **RS20248** to print. The motion carried by **voice vote** with **Senator Winder** voting "Nay."

Chairman McKenzie stated that the page, **Hannah Chelson**, would be graduated today. He thanked her for all her hard work and presented her with a gift and a letter of recommendation from the Committee. He introduced and welcomed **Christina Swanson**, Rigby, ID, page for the second half of the session.

RS20286 **Relating to Alcoholic Beverages:** **Roy Eiguren**, Attorney, Northwest Grocery Association, stated Idaho Code 23-1326 prohibits the extension of credit for the sale of beer by wholesalers to retailers. Idaho Code 23-1031 prohibits the extension of credit for the sale of wine by wholesalers to retailers. This legislation eliminates these two laws. The original purpose of these laws was to keep organized crime – which had taken control of the alcohol distribution business during prohibition - from extending outrageous credit terms to retail bars and sale outlets. Crime bosses would extend credit terms with the intent of taking over the retail business when the retail operator could not make the payments. It was this predatory activity that caused Legislatures around the country to put in legal firewalls – such as sections 23-1326 and 1031 - between wholesalers and retailers. These practices no longer exist and as such the laws are no longer needed. **Mr. Eiguren** requested the Committee send **RS20286** to print.

Senator Stennett asked how many states have repealed this law. **Mr. Eiguren** stated that currently 25 states allow for extension of credit.

MOTION: **Senator Hill** moved, seconded by **Vice Chairman Fulcher**, to send **RS20286** to print. The motion carried by **voice vote**.

Chairman McKenzie passed the gavel to **Vice Chairman Fulcher** to present **RS20451** and **RS20429**.

RS20451 **A Joint Resolution:** **Chairman McKenzie** stated the "Madison Amendment" gives states the power to safely propose an individual Amendment to the U.S. Constitution without the risk of a runaway convention. This resolution urges Congress to adopt the Madison Amendment. **Chairman McKenzie** requested the Committee send **RS20451** to print.

Senator Davis stated that he is more than familiar with the Madison Amendment and was skeptical when it was first presented. He has studied the amendment thoroughly since then and now strongly supports it. He stated that this amendment is a solid approach. **Senator Stennett** asked about the procedure should this RS be printed and then passed. **Chairman McKenzie** answered should this pass and if two-thirds of the states present an identical amendment, Congress would call for a convention on the issue of the amendment. **Senator Malepeai** asked if a convention was held on this issue would delegates from the states have to attend? **Chairman McKenzie** responded that he did not know.

MOTION: **Senator Davis** moved, seconded by **Senator Hill**, to send **RS20451** to print. The motion carried by **voice vote**.

RS20429 **Relating to Concealed Weapons:** **Chairman McKenzie** stated this legislation changes Idaho Code regarding concealed weapons; definition of intent, provisions for carrying weapons, provisions for licensure, provides penalties, and makes technical corrections. **Chairman McKenzie** requested the Committee send **RS20429** to print.

MOTION: **Senator Davis** moved, seconded by **Senator Lodge**, to send **RS20429** to print. The motion carried by **voice vote**.

ADJOURNMENT: **Vice Chairman Fulcher** returned the gavel to **Chairman McKenzie**. There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 8:29 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

Alyssa Horton
Assistant Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 21, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>GUBERNATORIAL APPOINTMENT</u>		
	Idaho Commission on Human Rights Brian Scigliano, serving a term commencing July 1, 2010 and expiring July 1, 2013.	
<u>RS20435</u>	The real estate license law requires an Idaho license to engage in business or act in the capacity of real estate broker "in this state." This legislation would move the definition of "acting in this state," which already is provided in the statute, to the "Definitions" section.	Jeanne Jackson-Heim, Real Estate Commission, John Eaton, Idaho Assoc of Realtors
<u>RS20448</u>	The purpose of this legislation is to clarify the disposition of land taken under Eminent Domain, that has not been utilized for roads or streets, for a period of fifty (50) years or more; to revert the land ownership back to its original owner(s) or his or her heirs.	Senator Shirley McKague
<u>RS20238</u>	The State Treasurer has operated the Local Government Investment Pool (LGIP) for some time. The local governments using the LGIP operate under a variety of statutory provisions concerning investment of funds. Clarifying that participating entities may invest using the LGIP will assist the State Treasurer when making investments and working with local officials.	Ron Crane, Treasurer, State of Idaho
<u>RS20239</u>	In the 2010 Session, the Legislature altered the provisions of the School Bond Guarantee Act to clarify the process for obtaining sales tax moneys to fulfill a guarantee. This legislation provides similar clarifications for the sales tax pledge under the Idaho Bond Bank Authority.	Ron Crane, Treasurer, State of Idaho
<u>H 87</u>	Relating to disposal of surplus personal property	Representative Bolz
<u>RS20402</u>	This resolution commemorates the founding of Lewis County 100 years ago on March 3, 1911.	Senator Sheryl Nuxoll
<u>H 43</u>	Relating to the Military Division	John Norris, Military Div
<u>H 44</u>	Relating to the Military Division, to revise duties of the Adjutant General	John Norris, Military Div.
<u>GUBERNATORIAL APPOINTMENT</u>		
	Confirmation vote on Megan Ronk, Idaho Commission on Human Rights	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 21, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:01 a.m.

GUBERNATORIAL APPOINTMENT: **Brian Scigliano** was appointed to serve on the Idaho Commission on Human Rights for a term commencing July 1, 2010 and expiring July 1, 2013.

RS 20435 Relating to Idaho Real Estate License Law. **John Eaton**, Idaho Association of Realtors, explained the real estate license law requires an Idaho license to engage in business or act in the capacity of real estate broker "in this state." This legislation would move the definition of "acting in this state," which already is provided in the middle of the statute, to the "Definitions" section of the statute. This legislation clarifies the legislature's intent to further the state's legitimate interest in the brokerage of real estate which is situated within Idaho, and in the conduct and solicitation of real estate business with Idaho residents. This legislation clarifies that persons may not evade Idaho's authority by conducting their Idaho activities from outside the borders of the state. This legislation also clarifies the Commission's authority over its licensees who "issue broker price opinions," closing a perceived regulatory gap. The Real Estate Appraisers Act grants a limited exemption from its licensing requirement to brokers who are licensed under the Real Estate License Law, allowing brokers to issue broker price opinions. This legislation would add the term "broker price opinion" to the Real Estate License Law.

MOTION: **Senator Davis** made a motion to send RS 20435 to print. **Senator McGee** seconded the motion. The motion carried by voice vote.

RS 20448 Relating to Creation of Streets. **Senator Shirley McKague** stated the purpose of this legislation is to clarify the disposition of land taken under Eminent Domain, that has not been utilized for roads or streets, for a period of fifty years or more; to revert the land ownership back to its original owner(s) or his or her heirs.

MOTION: **Senator Davis** made a motion to send RS 20448 to print. **Senator Hill** seconded the motion. The motion carried by voice vote.

- RS 20238** Relating to the Local Government Investment Pool. **Ron Crane**, Treasurer, State of Idaho, explained the State Treasurer has operated the Local Government Investment Pool (LGIP) for some time under the provisions of the joint exercise of powers provisions. The LGIP provides a cost effective, low risk investment option to a variety of public agencies. The local governments using the LGIP operate under a variety of statutory provisions concerning investment of funds. Clarifying that participating entities may invest using the LGIP and that the LGIP may look only to the investment restrictions governing the State Treasurer will assist the State Treasurer when making investments and working with local officials.
- MOTION:** **Senator Hill** made a motion to send RS 20238 to print. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.
- RS 20239** Relating to the Idaho Bond Bank Authority. **Ron Crane**, Treasurer, State of Idaho, explained in the 2010 Legislative Session, the Idaho Legislature altered the provisions of the School Bond Guarantee Act to clarify the process for obtaining sales tax moneys to fulfill a guarantee. This legislation provides similar clarifications for the sales tax pledge under the Idaho Bond Bank Authority. Sales tax moneys are transferred to the general fund and not retained in the state sales tax account. To reflect this practice, references to the state sales tax account are changed and the authorization to release the funds is changed to the State Controller, who holds authority to release moneys in the general fund.
- MOTION:** **Senator McGee** made a motion to send RS 20239 to print. **Senator Lodge** seconded the motion. The motion carried by voice vote.
- H 87** Relating to Disposal of Surplus Personal Property. **Representative Darrell Bolz** stated the purpose of this legislation is to add "federal" to I.C. 67-5732A. This would allow conveyance of surplus personal property to federal agencies along with other state and local agencies.
- MOTION:** **Senator Lodge** made a motion to send H 87 to the floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by voice vote.
- RS 20402** **Senator Sheryl Nuxoll**, explained this resolution commemorates the founding of Lewis County one hundred years ago on March 3, 1911.
- MOTION:** **Senator Davis** made a motion to send RS 20402 to print. **Senator McGee** seconded the motion. The motion carried by voice vote.
- H 43** Relating to the Military Division. **Lieutenant Colonel Dahle**, Senior Presiding Attorney for the Military Division, Idaho National Guard, explained this legislation amends 46-1103, Idaho Code, to clarify military jurisdiction over illegal drug use for Idaho National Guard members when not in a regular military duty status.
- MOTION:** **Senator McGee** made a motion to send H 43 to the floor with a do pass recommendation. **Senator Lodge** seconded the motion. The motion carried by voice vote.
- H 44** Relating to the Military Division, to revise duties of the Adjutant General. **Lieutenant Colonel Dahle**, stated this legislation amends 46-112, Idaho Code, to add additional language clarifying the Adjutant General's authority over contracting and procurement for military and nonmilitary facilities within the Military Division of the office of the Governor.
- MOTION:** **Senator McGee** made a motion to send H 44 to the floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION: **Chairman McKenzie** stated the committee would vote on the recommendation to confirm the appointment of Megan Ronk to the Idaho Commission on Human Rights to serve a term commencing July 1, 2010 and expiring July 1, 2013.

MOTION: **Senator Lodge** moved to send the gubernatorial appointment of Megan Ronk to the Idaho Commission on Human Rights to the Senate floor with a do confirm recommendation. **Senator McGee** seconded the motion. The motion carried by voice vote.

ADJOURNMENT: There being no further business **Chairman McKenzie** adjourned the meeting at 8:35 a.m.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of Senate

AMENDED AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
	GUBERNATORIAL APPOINTMENT Idaho Commission on Human Rights Estello O. Zamora, serving a term commencing July 1, 2010 and expiring July 1, 2013.	
<u>RS20283</u>	Idaho code does not specify any required qualifications to engage in election activities such as voter challenges, election conduct, and poll watching duties at polls. This legislation would restrict these official election duties to registered voters in the State of Idaho.	Senator Elliot Werk
<u>RS20455</u>	This legislation would amend Idaho Code, Section 54-2508 to revise provisions relating to the number of races per day and the number of days of horse racing.	Stan Boyd, Idaho Horsemens Association
<u>S1112</u>	This legislation amends Idaho Code to revise the typess of renewable energy school districts may own, contract for or maintain.	Senator Chuck Winder
<u>S1114</u>	This legislation removes "wine" from the definition of alcoholic liquor in Idaho Code because wine is not liquor and is regulated pursuant to the County Option Kitchen and Table Wine Act rather than the Idaho Liquor Act.	Roger Batt, Idaho Grape Growers and Wine Producers
<u>S1115</u>	The federal health care legislation signed into law will require the envisioned insurance exchanges to provide coverage for elective abortions unless the affected state chooses to "opt out" under the provisions of the Nelson-Reid Amendment.	David Ripley, Idaho Chooses Life
<u>RS20458</u>	A Senate Concurrent Resolution stating legislative findings and approving administrative rules that impose a fee or charge, with a stated exception, and rejecting agency.	Senator Curt McKenzie
	GUBERNATORIAL APPOINTMENT Confirmation vote on Brian Scigliano, Idaho Commission on Human Rights	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 23, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman McKenzie** called the meeting to order at 8:00 a.m. with a quorum present. The first order of business is the Gubernatorial Appointment of Estella O. Zamora to the Idaho Commission on Human Rights (Commission).

GUBERNATORIAL APPOINTMENT: **Chairman McKenzie** introduced **Estella O. Zamora** and asked her to tell the Committee about her continued role as a member of the Commission and the role of the Commission itself.

Ms. Zamora stated that she has lived in Canyon County for over 40 years. From the time her family settled there in 1964, her passion for the work of the Commission developed. Her motto is; "we should not tolerate each other, we should accept each other. We should embrace our differences, appreciate our cultures, and welcome each other in our place of employment, in our community, housing, and all those other things we, as human beings appreciate." Work in the Commission serves all those purposes and so she would like to continue serving on the Commission.

Senator Winder asked what would be her most satisfying experience in that service and provide an example. **Ms. Zamora** said there are cases in employment, housing, and public accommodation and she outlined a case related to public accommodation.

Senator Hill inquired about her length of service and asked what kind of cases were the most difficult. **Ms. Zamora** responded that she was first appointed in 1994 by Governor Andrus. Every case is difficult because it is dealing with people's lives and they have been harmed in one way or another.

Senator Davis referred to her statement in the confirmation application about "numerous meetings related to the merger of the Commission and the Department of Labor". How is that merger working? Explain what values you see with the Commission's association with the Department of Labor (Department). **Ms. Zamora** answered that the merger went very successfully. The work of the Commission was not affected in any way and the relationship between the two entities continues to be positive. The Commission handles many cases dealing with unemployment and that has been "a plus." The Department does not interfere at all and the Commission does its work as it always has.

Senator McGee commented on his connection with Ms. Zamora as a member of the Caldwell community.

Senator Malepeai asked if the cases coming before the Commission has increased and what areas of your statutory responsibilities have increased the most? Have the majority of those cases been mediated? **Ms. Zamora** stated that the number of cases has increased and the majority of the cases are sexual harassment cases. They do mediate. During her tenure, there has been only three or four cases that have actually gone to court.

Chairman McKenzie stated that it was a pleasure to have her here and thanked her for her service.

RS20283

Senator Werk presented RS20283 explaining that in Idaho statute, there are no real qualifications for those engaging in activities associated with an election. Consequently, people working in those activities may not be qualified to vote. This bill would restrict official election duties to be carried out by registered voters in Idaho.

MOTION:

Senator Davis moved, seconded by **Senator Lodge**, to send RS20283 to print. The motion carried by voice vote.

RS20455

Stan Boyd, Idaho Horsemen's Association (IHA), brought RS20455 to the Committee stating that this RS is an attempt to get Les Bois Park back in business. Les Bois Park is the State's largest race track and has been dark for two years. In Idaho, only Les Bois Park has met the current requirements to obtain a license for a race handle. Those requirements are that the combined live and simulcast races exceed \$5.0 million with not less than eight races per day, and not less than forty-six days per year. A new group, IHA, has been formed and is made up of horsemen and businessmen. They estimate that when Les Bois Park is up and running it means \$12.0 million to the economy in Treasure Valley. This legislation will allow IHA along with any lessee that the county approves to run less than the forty-six days.

Senator Winder asked how the forty-six days came about in the first place. **Mr. Boyd** said his recollection was that when the Idaho Horsemen's Benevolent Protection Association (IHBPA) considered the number of race days when simulcasting was introduced in 1990, that Les Bois Park would reduce its number of race days. To protect the live race industry, there must be a minimum number of days in order to have simulcasting. **Senator Davis** observed that with this language, the days could go down to one. **Mr. Boyd** agreed but the IHA has to approve any reduction in days.

Vice Chairman Fulcher asked if there was any opposition coming from the Ada County Commissioners since they function as a landlord over Les Bois Park.

Mr. Boyd replied that he had not visited with the Commissioners but the IHA is in negotiations with a new lessee and that would be in conjunction with the Commissioners.

Senator McGee inquired about the justification of "agreed upon" by the horsemen's group. **Mr. Boyd** replied that Idaho Code defines "Horsemen's Group" and that definition is recognized by the Idaho Horserace Commission. Once the Horserace Commission recognizes a particular group, that group can strike an agreement with a lessee. The recognized group in Idaho is the IHBPA.

MOTION:

Senator McGee moved, seconded by **Vice Chairman Fulcher**, to send RS20455 to print. **Senators Davis** and **Hill** stated their intention to vote no on this motion. The motion carried by voice vote.

S1114

Roger Batt, representing the Idaho Grape Growers and Wine Producers, provided an explanation of the changes made to S1114. Changes were:

- 1) Removal of wine from the definition of liquor; wine is not liquor and is currently regulated pursuant to the County Option Kitchen and Table Wine Act.
- 2) Codifies a gentlemen's agreement between the Liquor Division and the Industry to only purchase/sell Table Wines manufactured in Idaho.
- 3) Allows the Idaho State Tax Commission's Monthly Wine Report to also be used to report to Alcohol Beverage Control.

Senator McGee asked if it would still be possible to buy Idaho wines at a liquor store. **Roger Batt** answered in the affirmative.

Jeff Anderson, Director, Idaho State Liquor Division (Division), stated they and the Governor's office do not oppose S1114. However, some unintended consequences of this bill will remove some of the authority that the Division has had since the 1930s by codifying the restriction of table wine offerings to those manufactured in Idaho. There is no intention of expanding wine offerings in state liquor stores to anything other than Idaho wines. This may preclude an Idaho wine distributor from offering product in those stores that may not be manufactured in Idaho even though the grapes may have been grown in Idaho. These things are only pointed out for the Committee's information.

Senator Winder asked if this bill will cause a reduction in volume of sales. **Mr. Anderson** responded that it would not.

MOTION:

Senator McGee moved, seconded by **Senator Lodge**, to send S1114 to the Senate floor with a do pass recommendation. The motion carried by voice vote.

S1115

David Ripley, Director, Idaho Chooses Life, provided a short history on the policy of the state of Idaho on abortion. Policy limits abortion to endangering the life of the mother or cases of rape or incest. A district judge finding upheld the statute but modified the law by moving from a two physician certification to a one physician certification requirement. This legislation changes statute to conform with this holding. This prohibition is insufficient to prevent a new federal insurance program, "Patient Protection and Affordable Care Act," from mandating taxpayer-subsidized coverage for elective abortions. Therefore, a new and specific statute to prevent abortions from being provided under federalized health care is required and this bill adds a new Section 41-1848 to make that possible.

Senator Stennett asked where, in the Patient Protection and Affordable Care Act, your concerns are with respect to abortions that would impact the state. **David Ripley** explained that under the Nelson-Reid Amendment, a state is allowed to "opt out" of providing coverage for elective abortions. However, it will take a specific statute to do that. **Senator Stennett** pursued the question; so the Nelson-Reid compromise is really the only place that speaks to the subject. **David Ripley** answered that the national pro-life community is very concerned about the overall question of that piece of legislation and the subsidies in various forms for abortion. This legislation deals with only one specific and very detailed piece of public policy where the final Senate bill that came out of Congress and signed by President Obama made it very explicitly clear to us that we had the authority and right to opt out of providing insurance coverage for abortions if we chose to do so.

Senator Hill posed two questions: 1) Does the healthcare plan specify the language for opting out? 2) Are you comfortable that this language is appropriate and is it consistent with language being used by other states? **David Ripley** responded that the language came as a part of a model legislation package put together by the Americans United for Life who has been a critical player for Idaho Chooses Life in terms of getting up to speed on what had to be done and how to do it. It is consistent with other states. **Senator Hill** asked if there had been any court cases that define rape—does there have to be a conviction in order for a person to claim rape—what evidence is required? **David Ripley** distributed a list of rules compiled by the Department of Health & Welfare that are in effect as of today, governing exactly how funds are dispensed and what documentation would be necessary.

Testimony in Opposition of S1115:

Hannah Brass, American Civil Liberties Union of Idaho; Asked to hold in Committee.

Marty Durand, Legislative Council, Planned Parenthood of the Great Northwest; Asked to hold in Committee

Senator Davis asked Ms. Durand: 1)If the language proposed is subject to judicial scrutiny or challenge? and, 2)If the opt out language would affect tribal lands? **Ms. Durand** stated that she could see no immediate challenge but it is bad policy for the state of Idaho. As far as tribal lands, she had no answer.

Testimony in Support of S1115:

Julie Lynde, Executive Director, Cornerstone Family Council, Testimony Attached.

Jason Herring, Right to Life of Idaho: Testimony Attached

Senator Davis noted that he had concerns about Nelson-Reid applying to tribal lands. **Ms. Lynde** responded that research had not been done in that area. **Senator Malepeai** asked: 1)What rationale was used when discussing abortion in the case of rape; and, 2) Does age i.e. a women 45 or more, given any consideration when requesting an abortion? **Ms. Lynde** stated her belief that life begins at conception and it is never the baby's fault as to whether or not his/her father is a criminal. That exception is included based on a Supreme Court decision. In the case of the 45 year old woman, abortion is not a gift for any woman 17 or 45.

Mr. Ripley gave his closing remarks and thanked the committee for hearing this bill.

MOTION: **Vice Chairman Fulcher** moved, seconded by **Senator Hill**, to send S1115 to the Senate floor with a do pass recommendation. **Senator Stennett** stated her opposition to the bill. The motion carried by voice vote.

RS20458 **Paige Parker**, Legislative Services, presented RS20458, a concurrent resolution stating legislative findings and approving administrative rules that impose a fee or charge, with a stated exception, and rejecting agency rules that are not approved by this or by separate concurrent resolution.

MOTION: **Senator Hill** moved, seconded by **Senator McGee**, to send RS20458 to print. The motion carried by voice vote.

MOTION: **Senator Winder** moved, seconded by **Senator McGee**, to send the gubernatorial appointment of Brian Scigliano to the Idaho Commission on Human Rights to the Senate floor with the recommendation that it be confirmed by the Senate. The motion carried by voice vote. **Senator Winder** will carry the recommendation on the floor.

ADJOURNMENT: **Chairman McKenzie** announced that the meeting on Friday morning would be in the auditorium and adjourned the meeting at 9:04 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW02
Friday, February 25, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H 117</u>	The purpose of this legislation is to declare the two federal laws: Public Law 111-148 and Public Law 111-152, void and of no effect in the state of Idaho. The State's primary responsibility is to interpose and protect its citizens from unconstitutional acts of the federal government which necessitates ordering all state agencies to cease in implementation of these two federal acts.	Representative Vito Barbieri

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 25, 2011
TIME: 8:00 A.M.
PLACE: Room WW02
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:04 a.m.

H 117 Relating to State Sovereignty and Health and Safety. **Representative Vito Barbieri and Senator Pearce**, explained the purpose of this legislation is to declare the two federal laws: Public Law 111-148 and Public Law 111-152, void and of no effect in the State of Idaho. The state's primary responsibility is to interpose and protect its citizens from unconstitutional acts of the federal government which necessitates ordering all state agencies to cease in implementation of these two federal acts.

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or law of any state to the contrary notwithstanding." Article 6, Section 2 of the United States Constitution "The senators and representatives before mentioned, and the members of the several states legislature, and all executive and judicial officers, both of the United States and the several states, shall be bound by oath or affirmation, to support this constitution; ..." Article 6, Section 3 of the United States Constitution "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." 10th Amendment to the United States Constitution "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." 9th Amendment to the United States Constitution.

Initial cost estimates for Idaho to comply with the federal mandate are between \$228,000,000 and \$155,500,00 according to studies conducted by the Republican Governors Association and The Heritage Foundation, respectively. Additional cost to implement and maintain infrastructure for compliance is unknown at this time. Possible litigation cost are unknown, however, the state authorized \$100,000 for the Florida lawsuit and spent only between \$6,000 and \$7,000.

Representative Judy Boyle stated this legislation simply tells our state agencies that they cannot enforce this unconstitutional law.

Senator Steve Vick stated he spoke with Rob Natelson, which is one of America's best-known constitutional scholars. For 23 years, he served as Professor of Law at the University of Montana, where he taught Constitutional Law and became a recognized national expert on the framing and adoption of the United States Constitution. Mr. Natelson believes the State of Idaho has the Constitutional backing to support the passage of H 117.

TESTIMONY: Those that spoke in support of H 117 included: **Senator Sheryl Nuxoll**; **Jim Chmelik**, representing himself; **Richard Twight**, representing himself; **Jack Stuart**, representing himself; **Thomas Rogers**, representing himself; **Barbara Monday**, representing herself; **Walt Holton**, representing himself; **Jim Verdolini**, representing his family; **Dale Pearce**, representing himself; **Sandy Aujero**, representing herself; **Leah Southwell**, representing her family; **Parrish Miller**, representing himself; **Russ Smerz**, President, Tea Party of Boise; **Domenic Gesomino**, Conservative Student Coalition of Idaho; **John Christiansen**, representing his family; **Mike Chism**, representing Oath Keepers and his family; **John Blattler**, representing himself; **Gail Blattler**, representing herself; **Dennis Davey**, representing himself; **Elaine Jones**, representing her family; **Lyndon Smith**, representing his family; **Mike Gibson**, small business owner; **Valerie James**, representing herself; **Alma Lousie Kucera**, representing herself; **Robert Colman**, representing his family; **Representative Pete Nielsen**; **Michael Edmondson**, representing himself; **Jamie Edmondson**, representing herself; **Brian Pearce**, representing his family; **Todd Hatfield**, Hatfield Log Homes; **Lee Jones**, representing himself; **Jeff Hymas**, representing himself; **Janet Butterfield**, small business owner; **Rich Washburn**, representing himself; **Pete Ketcham**, representing himself; **Ron Clayson**, representing himself; **Challis McAfee**, representing himself; **A.J. Ellis**, representing himself; **Joe Turner**, representing himself; **Rosan Wiltse**, representing herself; **JB Washburn**, representing his family; **Lori Shewmaker**, representing herself; **Elizabeth Allan Hodge**, representing herself; **Craig D. Campbell**, representing himself; **Reggie Bigham**, representing himself; **Warren Fegley**, representing himself; **Steve Owen**, representing himself; **Jason Herring**, Right to Life of Idaho; **Clint Siegner** representing himself; **George Gersema**, representing himself and small business's; **Duncan Farris**, representing his family; **Jim Herrick**, representing himself; **Leiann Snyder**, representing herself; **Wayne Hoffman**, Idaho Freedom Foundation.

TESTIMONY: Those who spoke in opposition to H 117 included: **Donna Yule**, Executive Director, Idaho Public Employee Association; **Joel Kennedy**, representing himself.

Supporting documents related to this testimony have been archived and can be accessed in the Legislative Services Library.

In closing, **Senator Pearce** thanked the general public for their participation and the committee for their time and effort involved in the legislation. **Senator Pearce** stated that it is time for Idaho to stand up and protect the rights of our citizens.

Senator Lodge asked Brian Kane, Deputy Attorney General, if the State of Idaho would be fined or have to return any of the grant funding received for those unable to pay for health care expenses if this legislation were to pass? **Mr. Kane** stated they did not know the answer yet, however, the federal government has historically treated those in two different ways, the first way is if the state decides to opt out then the grant monies received would have to be returned. The other alternative is the federal government decides not to come back to the state for repayment of funds.

MOTION: **Vice Chairman Fulcher** made a motion to send H 117 to the floor with a do pass recommendation. **Senator Winder** seconded the motion. **Senator Davis** stated as strongly as he disagrees with the federal health care act he was unable to find where our state has the ability to nullify a federal act. He believes that it is not within Idaho's power to stop it other than by the legal expressions that have been previously expressed. **Senator Hill** stated he could not find the constitutional justification for the comments expressed. The motion failed by voice vote.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of Senate

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 28, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20467</u>	This concurrent resolution would approve and extend agency temporary rules beyond the current session.	Paige Alan Parker, Legislative Services
<u>HCR 8</u>	This resolution recognizes and congratulates the City of Lewiston and the Lewis and Clark Valley for being one of the safest and most secure places to live in the United States.	Senator Joe Stegner
<u>RS20504</u>	Relating to the extension of credit; amending Idaho Code 23-1031 and 23-1326.	Jeremy Pisca, Idaho Beer & Wine Distributors Assn.
<u>SJM102</u>	The "Madison Amendment" gives states the power to safely propose an individual Amendment to the U.S. Constitution without the risk of a runaway convention.	Senator Curt McKenzie

GUBERNATORIAL APPOINTMENT

Confirmation vote on Estella Zamora, Idaho
Commission on Human Rights

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 28, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:00 a.m.

RS20467 Paige Parker, Legislative Services stated that this concurrent resolution would approve and extend agency temporary rules beyond the current session.

MOTION **Senator Hill** moved, seconded by **Senator McGee**, to print **RS20467**. The motion carried by voice vote.

HCR 8 **Senator Joe Stegner** said this resolution recognizes and congratulates the City of Lewiston and the Lewis and Clark Valley for being one of the safest and most secure places to live in the United States, according to the Farmers Insurance Group of Companies. The honor highlights accomplishments including excellent job growth, low crime and minimal housing depreciation, among others.

MOTION **Senator Lodge** moved, seconded by **Vice Chairman Fulcher**, to send **HCR 8** to the floor with a do pass recommendation. The motion carried by voice vote.

RS20504 **Jeremy Pisca**, Idaho Beer & Wine Distributors Assn., testified that as is the case with the overwhelming majority of states, Idaho utilizes a three-tier regulation system for licensed suppliers, distributors and retailers of beer and wine products. A critical component of the three-tier system is the "cash law" codified at Idaho Code, Section 23-1031, (beer) and Idaho Code Section 23-1326, (wine). These sections prohibit the extension of credit for the licensed retail purchase of beer and wine products. This legislation amends these code sections to clarify that, if requested by a licensed retailer, a licensed brewer, wholesaler or dealer shall arrange for a prepaid deposit account for such purchases. **Senator Davis** asked what the industry consensus was concerning the legislation. **Mr. Pisca** replied that he had just had the legislation drafted, but it was supported by the distributors.

MOTION **Senator McGee** moved, seconded by **Senator Stennett**, to print **RS20504**. The motion carried by voice vote.

Chairman McKenzie gave the chair to **Vice Chairman Fulcher** so **Chairman McKenzie** could present the next legislation on the agenda.

SJM 102

Chairman McKenzie explained that, with the approval of SJM102, this Memorial will be sent by the Secretary of the Senate to the President of the Senate and the Speaker of the House of Representatives of Congress urging Congress to adopt the Madison Amendment which was introduced in Congress on July 30, 2010. If adopted, this amendment would allow, with two-thirds of the states requesting, a call for a Convention to propose a single amendment. **Senator Stennett** asked what the procedure is at the present time. **Chairman McKenzie** answered Congress, by a two-thirds vote or two-thirds of the legislatures of the states, can call for a Convention, but there is no limiting of what can be proposed for amendment. The Madison Amendment would give the states the right to call for a single amendment.

MOTION

Senator McGee moved, seconded by **Senator Lodge**, to send **SJM102** to the floor with a do pass recommendation. The motion carried by voice vote.

Vice Chairman Fulcher returned the chair to **Chairman McKenzie**.

MOTION

Senator McGee moved to send the gubernatorial appointment of **Estella Zamora** to the Idaho Commission on Human Rights to the floor with the recommendation that it be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by voice vote.

ADJOURN

Chairman McKenzie adjourned the meeting at 8:22 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 04, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20465</u>	The legislation provides statewide minimum standards and definitions and allows counties to be more restrictive. A new category of "at risk" dogs is added and the existing term "vicious" is replaced by "dangerous" dog.	Senator Tim Corder
<u>RS20479</u>	This legislation provides clarification to the current statute that pertains to animal care.	Senator Bert Brackett
<u>RS20474</u>	The legislation would repeal provisions of Idaho Code to conform with Idaho Supreme Court holdings.	Tim Hurst, Idaho Secretary of State
<u>S1130</u>	This legislation provides clarifications for the sales tax pledge under the Idaho Bond Bank Authority.	Ron Crane, Treasurer
<u>RS20453</u>	The purpose of this legislation is to provide definitions and to give a public housing provider the tools to evict a tenant when the tenant, guest, or family member violates the public housing provider's requirement to maintain the public housing premises in a decent, safe and sanitary condition.	Mike Dittenberg, Executive Director of Caldwell Housing Authority
<u>S1134</u>	This legislation would restrict official election duties to registered voters in the state of Idaho.	Senator Elliot Werk
<u>RS20430</u>	The purpose of this legislation is to create a new section which will provide provisions in the event of an unanticipated public charter school closure.	Senator Chuck Winder
<u>RS20431</u>	The purpose of this legislation is to amend current code to allow a student who is under fourteen years of age to employed by a public school of the district where he or she is enrolled.	Senator Chuck Winder
<u>RS20542</u>	This legislation addresses scientific evidence proving that an unborn baby feels pain at 20 weeks post fertilization. The state has an interest in protecting the unborn baby from pain.	Senator Chuck Winder

APPROVAL OF MINUTES

January 26, 2011
February 23, 2011
February 28, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 04, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 and welcomed guests.

RS 20465 Relating to the Addition of a New Category of "At Risk" Dogs. **Senator Corder** explained this legislation updates Sections 25-2803 and adds Sections 25-2809-25-2815, Idaho Code. The legislation provides statewide minimum standards and definitions and allows counties to be more restrictive. A new category of "at risk" dogs is added and the existing term "vicious" is replaced by "dangerous" dog. Penalties remain the same for dogs running at large and subject to impoundment; however sheriff's responsibility to house and use reasonable effort to locate owners prior to disposition of a dog is clarified. Liabilities and penalties are to provide for dog attacks on humans, and domestic animals including production and companion. Changes to the statute give the court more discretion in the management of dangerous dogs and the ability to differentiate less severe behavior from more dangerous behavior and provide appropriate conditions for keeping the offending dog to ensure public safety. The court is provided the discretion to order a dog destroyed on a first incident resulting in severe injury or death of a human. The statute provides that under certain circumstances aggressive acts by dogs are justifiable, and the dog and its owner exempted from prosecution. Personal responsibility is emphasized as well as the rights of both owners and victims of at risk or dangerous dogs. Misdemeanor penalties are introduced for dangerous dog violations.

MOTION: **Senator McGee** made a motion to send RS 20465 to print. **Senator Stennett** seconded the motion. The motion carried by voice vote.

RS 20479 Relating to Animals. **Senator Brackett** stated this legislation provides clarification to the current statute that pertains to animal care. The proposed legislation clearly defines the role of the local enforcement agencies and the Idaho State Department of Agriculture and it brings clarity to the definition of production animals.

MOTION: **Senator Hill** made a motion to send RS 20479 to print. **Senator McGee** seconded the motion. The motion carried by voice vote.

RS 20474

Relating to State Lands. **Tim Yurst**, Office of the Secretary of State, explained this legislation would repeal provisions of Chapter 3, Title 58 of the Idaho Code to conform with Idaho Supreme Court holdings, to resolve constitutional issues identified by the Idaho Attorney General, and ensure conformance with the direction in Article IX, § 8 of the Idaho Constitution that state endowment lands are "subject to disposal at public auction for the use and benefit of the respective object for which said grants of land were made . . ." Idaho Code §§ 310A and 310 B contain provisions that conflict with this mandate. Idaho Code §58-310B was held to be unconstitutional by the Idaho Supreme Court in *Idaho Watersheds Project v. State Board of Land Commissioners*, 133 Idaho 64, 982 P.2d 367 (1999), because its requirement that the Board's award of leases in conflict auctions must consider both direct returns to endowment beneficiaries and indirect revenues resulting from, "the additional sales, income, and property taxes that would be generated by using endowment lands to support a healthy livestock industry was an attempt "to promote funding for the schools and the state through the leasing of school endowment lands," in violation of the mandate of Article IX, § 8, that the only allowable criteria for awarding leases is the "maximum long-term financial return to the schools." In 2009 the Idaho Attorney General issued an Opinion addressing Idaho Code § 58-310A. Observing that Section 58-310B was patterned after Section 58-310A, the Attorney General concluded that the public auction requirement of Article IX § 8 applies to all leases of endowment land and "that a court would hold the stated purpose of Section 58-310A violated the duty of undivided loyalty to trust beneficiaries, since. . . the elimination of the public auction requirement was done explicitly for the benefit of the lessees, not the benefit of the trust beneficiaries." On December 17, 2010, in *Wasden v. State Board of Land Commissioners*, an action challenging the constitutionality of Idaho Code § 58-310A, the Fourth Judicial District Court issued a preliminary injunction enjoining the Land Board from issuing new leases pursuant to the statute. Judge Bail opined that the "public auction" requirement of the constitution cannot be negated simply by a statute. It will require a constitutional amendment to remove that requirement. (A motion for summary judgment on the constitutionality of the statute is pending before the district court.) Continuing reliance on courts to resolve such issues will increase uncertainty among lessees and adversely affect endowment income. This bill will bring certainty to beneficiaries and lessees by amending those provisions of Idaho Code related to cottage site and grazing leases to conform with the public auction requirement of Article IX, § 8 as construed by the referenced legal decisions.

MOTION:

Senator McGee made a motion to send RS 20474 to print. **Senator Hill** seconded the motion. The motion carried by voice vote.

RS 20453

Relating to the Public Housing Protection Act. **Mike Dittenberg**, Executive Director of Caldwell Housing Authority, stated the purpose of this legislation is to provide definitions and to give a public housing provider the tools to evict a tenant when the tenant, guest, or family member violates the public housing provider's requirement to maintain the public housing premises in a decent, safe, and sanitary condition. Under this legislation, any tenant may be evicted who is a health and safety risk to other tenants residing in the immediate vicinity, commits a crime, or knowingly provides the public housing owner with false information as described in the legislation. This legislation also outlines jurisdiction for cases of violation of this legislation and provides a statute of limitations. This legislation will not prevent local entities from pursuing and enforcing ordinances or resolutions consistent with public housing regulations.

MOTION:

Senator Davis made a motion to send RS 20453 to print. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

S 1134

Relating to Elections. **Senator Elliot Werk** explained that Idaho Code does not specify any required qualifications to engage in election activities such as voter challenges, election conduct, and poll watching duties at polls. As a result, any person, regardless of age or citizenship, may engage in official election activities-including direct challenges of voter qualifications. This legislation would restrict these official election duties to registered voters in the State of Idaho. Due to county elections office time lines, the list of names provided would need to be provided 12 days prior to the election, however new voter registration closes 28 days prior to the election.

Senator Davis noted the legislation has no fiscal impact, however, there will be some cost to the counties as they spend time preparing the list of registered voters. **Senator Werk** responded determining the fiscal impact would be difficult other than the current county workers would have that additional task. **Senator Davis** questioned if the Association of Counties had been contacted in order determine whether they thought there would be a cost involved? **Senator Werk** replied he had not contacted them.

Senator Davis stated if the purpose of the poll watcher is to alert those there if there has been a violation of the law, what imbues additional knowledge and understanding on the poll watcher by being a registered voter than not? The individual participating in this civic action could be a high school student learning the process for a government class. **Senator Werk** answered nothing, except under current statute that individual could be a violent sexual predator, right now there is no distinction.

Senator Winder questioned if there are rules or laws that would prohibit a student from being an "observer", however, not listed as a poll watcher? **Tim Hurst**, Office of the Secretary of State, responded to the question stating the only people who can observe in a polling place are certified watchers. A list of watchers is submitted by the candidates or parties and there is no restriction placed on the individuals. **Senator Winder** asked if there was anything that prohibits and citizen, of any age from going into a polling place to observe? **Mr. Hurst** stated the only individuals allowed are those voting. Individuals are not allowed to observe as congestion can interfere with the political process, also voters may feel uncomfortable having someone looking over their shoulder.

MOTION:

Vice Chairman Fulcher stated there may be other ways to solving this issue and made a motion to send S 1134 to the 14th Order for possible amendment. **Senator Davis** seconded the motion. The motion carried by voice vote.

RS 20430

Vice Chairman Fulcher explained both RS's were heard prior in the Education Committee and it was with unanimous consent that both be printed.

RS 20431**Motion:**

Vice Chairman Fulcher made a motion to send RS 20430 and RS 20431 to print. **Senator Winder** seconded the motion. The motion carried by voice vote.

RS 20542

Relating to Abortion. **Senator Chuck Winder** explained there is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization. It is the purpose of the State to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain, and the bill protects such unborn children by prohibiting abortion after 20 weeks postfertilization, except when the mother has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, or it is necessary to preserve the life of an unborn child.

It is very difficult to determine the possible fiscal impact of this bill. The State of Nebraska has passed similar legislation and there has been no legal challenge of the legislation. Therefore, if no one legally challenges this bill, there will be no fiscal impact. However, should it be necessary for the state to defend the legislative action, there would possibly be some fiscal impact. However, the bill establishes a legal defense fund that would allow contributions of no-state money to provide for or aid the state in the defense of this legislation.

MOTION: **Vice Chairman Fulcher** made a motion to send RS 20542 to print. **Senator Hill** seconded the motion. The motion carried by voice vote.

S 1130 Due to a lack of a presenter this legislation will be deferred to another day.

MINUTES: **Senator Hill** made a motion to approve the minutes of January 26, February 23 and February 28, 2011. **Senator Winder** seconded the motion. The motion carried by voice vote.

ADJOURNMENT: There being no further business, **Chairman McKenzie** adjourned the meeting.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of Senate

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 07, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1130</u>	This legislation provides clarifications for the sales tax pledge under the Idaho Bond Bank Authority.	Treasurer Ron Crane
<u>HJM 001</u>	The purpose of the joint memorial is to affirm the Idaho Legislature's support for the Parental Rights Amendment to the U.S. Constitution.	Representative Bob Nonini
<u>S 1125</u>	This legislation eliminates two laws in Idaho Code that prohibits the extension of credit for the sale of beer by wholesale retailers and the extension of credit for the sale of wine by wholesale retailers.	Roy Eiguren, Northwest Grocery Association
<u>S 1136</u>	This legislation amends Idaho Code to clarify that, if requested by a licensed retailer, a licensed brewer, wholesaler or dealer shall arrange for a prepaid deposit account for purchases of beer and wine products.	Jeremy Pisca, Idaho Beer & Wine Distributors Association

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 07, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

ABSENT/ EXCUSED: Chairman McKenzie

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES Vice Chairman Fulcher called the meeting to order at 8:00 a.m. Vice Chairman Fulcher explained that Chairman McKenzie was presenting in another committee and asked Vice Chairman Fulcher to start the meeting in his absence.

S1130 This legislation provides clarifications for the sales tax pledge under the Idaho Bond Bank Authority.

Treasurer Ron Crane stated this legislation is concerning the Idaho Bond Bank Authority, amending Idaho Code 67-8716. The code refers to a sales tax account that no longer exists and the State Controller now has the authorization to release funds. Treasurer Crane pointed out a clerical error that needed to be corrected. In line 13, the word "fund" should be asserted after bond bank authority. It was agreed by the Committee that Senator Davis would correct it under Rule 9 on the Senate floor.

MOTION Senator Winder moved, seconded by Senator Lodge, to send it to the floor with a do pass recommendation. The motion carried by voice vote.

HJM 001 The purpose of the joint memorial is to affirm the Idaho Legislature's support for the Parental Rights Amendment to the U.S. Constitution.

Representative Nonini stated this joint memorial is to show the Legislature's support of the proposed Parental Rights Amendment. He related there have been two Congressmen, Senator James DeMint of South Carolina and Representative Peter Hoekstra of Michigan, working on the amendment.

Barry Peters, Cornerstone Family Council and Idaho Coalition of Home Educators testified that there isn't language such as "parents", "child", "education" or "upbringing" in the Constitution. This legislation is an effort to shore up parental rights. Senator Davis asked Mr. Peters if this memorial was a Madison Amendment for parental rights. He agreed. Senator Hill asked that if the proposed amendment became a part of the Constitution, what effect, in Mr. Peters opinion, would this have on a parent's right to abuse a child; a parent's right to raise a child in an illegal setting; such as a meth lab; where illegal drugs are sold; and does this supersede any Idaho truancy laws. Would a parent have a right to not educate their child? Mr. Peters replied that this is not an effort to change parental rights but to reinforce parental rights.

Linda Patchin, Christian Homeschoolers of Idaho, Holly Managhan, Rachel Hooper and Julie Lynde, Cornerstone, testified in support of HJM001.

MOTION

Senator McGee moved, seconded by Senator Lodge, to send HJM001 to the floor with a do pass recommendation. The motion carried by voice vote.

S 1125

Roy Eiguren, Northwest Grocery Association, opened the testimony by saying that the original purpose for limiting credit for both beer and wine is both archaic and obsolete. In today's business world limiting credit for beer and wine is not good business practice.

Joe Gilliam, President Northwest Grocery Association, stated that S1125 would repeal an archaic law passed in Idaho in 1933, called the "Tied House" law. It was intended to control the involvement of organized crime in retail alcohol sales. This bill allows the extension of credit, it does not require the extension of credit. Senator Stennett asked how long credit would be extended under this bill. Mr. Gilliam replied that this bill would allow the negotiation of credit, not set credit terms. Senate Stennet further asked what would be the result if a retailer couldn't pay the credit. Mr. Gilliam answered that it would be the same if retailer couldn't pay for any other product they sell. The wholesaler could recover product from the retailer.

Chairman McKenzie joined the meeting at this time. Vice Chairman Fulcher gave the Chair to Chairman McKenzie.

S 1136

Jeremy Pisca, Idaho Beer & Wine Distributors Association, supplied packets to be distributed to the members of the Committee to support his testimony. He pointed out that S1136 clarifies the matter of credit between wholesalers and retailers. Instead of repealing the two laws as in S1125, it allows the use of pre-payment accounts for the payment of beer and wine. Senator Davis asked why there seems to be separate standards for the sale of beer and wine and the sale of hard liquor. Mr. Pisca answered that he didn't know about that situation, but there are other third party alternatives to paying cash that can be used by the retailer. One of those is Fintech, which is a deposit account that pays invoices for retailers. The cash laws are part of a 3-tier system, each tier is licensed and regulated and each tier is subject to having their license removed.

S1125 in support:

Representative John Vander Woude (convenience store owner)

Michael Read (WinCo)

Charley Jones (Stinker Stores)

S1136 in support

David Morrison (Idaho Distributing)

Dodds Hayden (Hayden Beverage)

Chris Bantrup (BRJ Distributing)

Chairman McKenzie stated that time does not allow more testimony.

MOTION

Senator McGee moved, seconded by Senator Davis, to hold S1125 and S1136 for the call of the Chairman. Chairman McKenzie expressed the desire that the sponsors of S1125 and S1136 continue to have discussion to possibly work out a compromise. Chairman McKenzie called for a vote on the motion. The motion passed by voice vote.

ADJOURN

Chairman McKenzie adjourned the meeting at 10:00 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

**AMENDED #2 AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 09, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<u>HCR 18</u>	The purpose of this resolution is to inform the people of the state of Idaho of the historical values of the discovery of gold in 1862 in Boise County.	Representative Pete Nielsen
<u>RS20228C3</u>	This legislation changes library districts, hospital boards, water and sewer districts, and auditorium district boards which currently have a six years term of office to standardize them with other districts at four years.	Tim Hurst, Chief Deputy, Secretary of State
<u>RS20552</u>	This bill would amend the Telecommunications Act of 1988 by eliminating a requirement that telephone corporations file with the Public Utilities Commission tariffs or price lists for long distance and local exchange services they provide to business customers.	Amy Holly, Verizon Communications

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
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Phone: (208) 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 09, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Malepeai, and Stennett
ABSENT/EXCUSED: Senators Lodge
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:03 a.m.

RS20228C3 This legislation changes library districts, hospital boards, water and sewer districts, and auditorium district boards which currently have a six years term of office to standardize them with other districts at four years.

Tim Hurst, Chief Deputy, Secretary of State, explained that this legislation standardizes those boards' terms of office from 6 years to 4 years to correspond to the terms of office of similiar boards.

MOTION **Senator McGee** moved, seconded by **Senator Fulcher**, to print **RS20228C3**. The motion carried by voice vote.

HCR 18 The purpose of this resolution is to commemorate the discovery of gold in 1862 in Boise County.

Senator Tim Corder stated that this resolution recounts the discovery of gold in Boise County and the history of the George Grimes monument located in Boise County. It also recognizes the Idaho Sesquicentennial celebration and the Gold 2012 Committee. The Gold 2012 Committee is active in preserving historical artifacts.

Senator Corder told the Committee that at the time of passing of **HCR18** in the House, it was requested that changes be made to the resolution. reflecting that the celebration is the Southwest Idaho Gold Sesquicentennial celebration. This change was agreed to by the sponsor, **Representative Nielsen**.

MOTION **Senator McGee** moved, seconded by **Senator Winder**, to send **HCR18** to the amending order. The motion carried by voice vote.

RS20552 This bill would amend the Telecommunications Act of 1988 by eliminating a requirement that telephone corporations file with the Public Utilities Commission tariffs or price lists for long distance and local exchange services they provide to business customers.

Amy Holly, Verizon Communications, reported that this legislation would change the filing of tariffs and price lists to allow telecommunication companies to file business customer information, not residential customer information, on a website. **Senator Davis** asked if this would affect the PUC's ability to investigate complaints and if those websites would be secure. **Ms. Holly** replied that the PUC would still be able to access information to investigate complaints and that the legislation covers the requirements for website filing.

MOTION

Senator Davis moved, seconded by **Senator Hill**, to print **RS20552**. The motion carried by voice vote.

ADJOURN

Chairman McKenzie adjourned the meeting at 8:18 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 14, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20404C1</u>	This bill makes a technical correction relating to workers compensation insurance fraud and amends Idaho Code to make it consistent with penalties for insurance fraud in Title 41.	Senator John Goedde
<u>S 1145</u>	This bill will amend provisions of Idaho Code relating to cottage site and grazing leases.	Ben Ysursa, Secretary of State
<u>H 187</u>	This legislation resolves a conflict between the Freedom of Conscience for Health Care Professional Act and the Medical Consent and Natural Death Act.	Representative Julie Ellsworth
<u>S 1133</u>	This legislation would amend Idaho Code to revise provisions relating to the number of races per day and the number of days of horse racing	Stan Boyd, Idaho Horsemens Association
<u>RS20600</u>	This legislation addresses scientific evidence proving that an unborn baby feels pain at 20 weeks post fertilization. The state has an interest in protecting the unborn baby from pain.	Senator Chuck Winder

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 14, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 a.m.

RS20404C1 Relating to Workers Compensation Insurance Fraud. **Senator John Goedde** explained this legislation makes a technical correction in 41-293 relating to workers compensation insurance fraud and amends 72-801 to make it consistent with penalties for insurance fraud in Title 41. The penalty will be increased from a misdemeanor to a felony. Further it clarifies that a person guilty of workers compensation insurance fraud will still be eligible for benefits from a future legitimate claim.

MOTION: **Senator McGee** made a motion to send RS 20404C1 to print. **Senator Lodge** seconded the motion. The motion carried by voice vote.

S 1145 Relating to State Lands. **Ben Ysursa**, Secretary of State, stated that this legislation amends Idaho Code to repeal and remove references to Sections 58-310A and 58-301B. **Secretary of State Ysursa** stated there was a question from Senator Davis at the print hearing regarding how this bill impacts current litigation. He said that both their counsel and the counsel of the Board, Mr. Strong, who was in attendance, believe it is neutral to that litigation. What this bill does, is clear up the legislation affecting future business. **Secretary of State Ysursa** stated that the fiduciary concept of undivided loyalty to the beneficiaries must be upheld.

Vice Chairman Fulcher asked if the purpose of this legislation, in part to help open the door to disposition some for personal properties and such. **Secretary of State Ysursa** replied that the purpose is to establish that at the time of the end of the lease, others can file an application to lease the cottage site. Also, if there is a change in the lease, the current lessee will be reimbursed for improvements to the cottage site. The Land Board has voted to sell cottage sites in a market-savvy manner at public auction or exchange of other properties of equal value.

Senator Davis asked for an explanation of what 310B states, and what the difference is between 310A and 310B. Also, is there an Attorney General opinion on the unconstitutionality of 310B. **Secretary of State Ysursa** answered that 310B was held unconstitutional by the Idaho Supreme Court in 1999. Although it has been judged unconstitutional, it will stay in Idaho Code, identified in annotation as unconstitutional, until it is removed by legislation. **Senator Davis** inquired why the Land Board has decided to auction property in a down economy, why sell the property now? **Secretary of State Ysursa** answered that along with exchanges they will be disposed of in a market savvy manner. This is a long-range plan, and will take time. **Senator Davis** questioned how long has the State owned the lots that the Land Board is contemplating selling. **Secretary of State Ysursa** answered that some of the property has been owned since the 1930's. **Senator Davis** then asked that with 310A being deemed unconstitutional and 310B being declared unconstitutional by the court, does the Land Board need the legislation of S 1145 in order to make the sales and exchanges. **Secretary of State Ysursa** replied that whatever code was in place at the time of the cottage site lease will continue with that lease. **Senator Davis** wanted to know if, despite the current disagreements within the Land Board, if the members were in agreement concerning this legislation? **Secretary of State Ysursa** said that the legislation is supported.

Senator Winder asked where Secretary Ysursa would seek legal advice when there is a conflict with the Attorney General on Land Board decisions. **Secretary of State Ysursa** answered that the conflicts of the past have been resolved.

Jan Sylvester, representing herself, spoke in support of S 1145. She stated the purpose of the endowment lands is to serve the needs of the beneficiaries, and the laws that pertain to the endowment lands should be constructed with that purpose in mind.

Laurie Beckel, representing Idaho PTA, spoke in support of S 1145. Stating that the Land Board is entrusted with proper management of land held in trust for the beneficiaries of that trust.

Bonnie Butler, Senior Special Assistant to the Governor for Natural Resources, representing the Governor's office, stood in support of S 1145.

Dan Goicoechea, Chief Deputy Controller for Controller Donna Jones, stood in support of S 1145.

Senator Davis requested Clive Strong, Deputy Attorney General, to speak in regards to the legislation. **Mr. Strong** testified that the Attorney General supports S 1145.

MOTION:

Senator McGee made a motion to send S 1145 to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion. The motion carried by voice vote.

H 187

Relating to Freedom of Conscience for Health Care Professionals. **Representative Julie Ellsworth** explained this legislation resolves a narrow conflict between the Freedom of Conscience for Health Care Professionals Act (IC 18-611) and the Medical Consent and Natural Death Act (IC 39-4513). She then turned the testimony over to Bob Aldridge, the attorney that helped draft the Medical Consent and Natural Death Act.

Mr. Aldridge stated that the main change that H 187 makes to the Freedom of Conscience for Health Care Professional Act and the Medical Consent and Natural Death Act is on page 2 of the bill, lines 19 - 24. This refers to Idaho Code, Section 39-4513 (2) which basically says that if a health care professional should wish to not continue treating a patient in an emergency situation, if there is no other health care professional capable of treating such patient available, they are required to continue treatment until another is obtained. **Mr. Aldridge** continued that he feels that, based on his years of experience with end-of-life situations, H 187 gives the clarity needed for people's wishes to be carried out while, at the same time, preserves health care professionals right to withdraw when in conflict with those wishes.

Senator Stennett questioned why employees of hospices and others are not included in this legislation. **Mr. Aldridge** answered that removal of life sustaining is a decision that has to be made by a physician, even in the case of hospice care, a physician makes those decisions. **Senator Stennett** stated that in the case of in-home care, how is that covered? **Mr. Aldridge** replied that is covered in the Medical Consent and Natural Death Act.

Senator Hill stated that he was still trying to determine if this amendment to the statute puts more restrictions on the physician or gives the physician more flexibility. He said that it appears that the statute already allows the physician to withdraw care and treatment to the patient if there is a conscious objection, now, with the changes, it seems there is more restriction. **Mr. Aldridge** stated this amendment simply clarifies the current set of duties. **Senator Hill** stated he has received information from an opponent of H 187 and that with the passage of this legislation it may force thousands of Idahoans to re-write their Advanced Directives. **Mr. Aldridge** answered that was not correct, there will be no need to change Living Wills or Advanced Directives as a result of this amendment and that, indeed, this legislation clarifies and simplifies the existing legislation to make those documents more valid.

Senator Lodge stated according to information she has received, that this will further complicate end-of-life situations, is that correct? **Mr. Aldridge** responded that, if anything, this legislation removes some of the complication from those situations.

Ca Marquet, a concerned citizen, stated that while she understands the legislation after **Mr. Aldridge** explained it, she is still concerned because there are no bills passed to give people the right to die.

Clark Limb, Treasure Valley Hospice, testified against H 187. **Mr. Limb** described stories of incidents he has witnessed and does not feel that this legislation goes far enough to fix the Medical Consent and Natural Death Act.

CJ Petrovsky testified against H 187 and described the legislation as a narrow fix.

Lynn Young, AARP, spoke in opposition to H 187.

MOTION:

Senator Winder made a motion to send H 187 to the Senate floor with a do pass recommendation. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

S 1133

Relating to Horse Racing. **Stan Boyd**, Idaho Horsemen's Association, explained this legislation would amend Idaho Code, Section 54-2508 to revise provisions relating to the number of races per day and the number of days of horse racing. This could be a lesser number than the minimum number of races per day and the minimum number of days racing stated in Idaho Code. **Mr. Boyd** stated that they took in consideration some of the suggestions by the committee and prepared an amendment to the bill, with the request that it is sent to the 14th Order.

Cheryl Keshan, President, Idaho Thoroughbred Association, spoke in favor of this legislation.

Nancy Vannorsdel, Idaho Horse's Alliance, spoke in favor of the legislation and the positive economic viability it would create for Boise.

Dwayne Dickecteson, Idaho Horse's Alliance, encouraged the committee to send S 1133 to the Senate floor with a do pass recommendation.

MOTION: **Senator McGee** made a motion to send S 1133 to the 14th Order for amendment. **Senator Lodge** seconded the motion. The motion carried by voice vote.

RS 20600 Relating to Abortion. **Senator Chuck Winder** explained the Trial Lawyer's Association changed a few things in the legislation and would like to request a reprint.

MOTION: **Senator McGee** made a motion to send RS 20600 to print. **Senator Davis** seconded the motion. The motion carried by voice vote.

ADJOURNMENT There being no further business **Chairman McKenzie** adjourned the meeting at 9:46 a.m.

Senator McKenzie
Chairman

Jennifer Novak

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW02
Wednesday, March 16, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20577C1</u>	This legislation amends Idaho Code to allow for a five business day extension of credit by wholesalers to retailers for the sale of beer and wine, and would also allow the use of a credit card as an extension of credit.	Roy Eiguren, Northwest Grocery Association
<u>RS20635</u>	This legislation amends Idaho Code to provide a five-day grace period for transactions utilizing electronic funds transfers from retailers to wholesalers for the sale of beer and wine. The legislation provides that such five-day grace period is not a violation of the cash law nor an unlawful acceptance of credit by a licensed retailer.	Jeremy Pisca, Idaho Beer & Wine Distributors Association
<u>S 1165</u>	This legislation addresses scientific evidence proving that an unborn baby feels pain at 20 weeks post fertilization. The state has an interest in protecting the unborn baby from pain.	Senator Chuck Winder
<u>RS20547C1</u>	A Senate Resolution recognizing the interest of the State of Idaho to promote relationships with the Turkish people.	Senator Curtis McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 16, 2011

TIME: 8:00 A.M.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8 a.m.

RS 20577C1 Relating to Alcoholic Beverages. **Roy Eiguren**, Northwest Grocery Association, explained Idaho Code 23-1326 prohibits the extension of credit for the sale of beer by wholesalers to retailers. Idaho Code 23-1031 prohibits the extension of credit for the sale of wine by wholesalers to retailers. This legislation amends those two laws by allowing for a five business day extension of credit by wholesalers to retailers. It would also allow the use of a credit card as an extension of credit.

RS 20635 Relating to Alcoholic Beverages. **Jeremy Pisca**, Idaho Beer & Wine Distributors Association, explained, as is the case with the overwhelming majority of states, Idaho utilizes a three-tier regulation system for licensed suppliers, distributors and retailers of beer and wine products. A critical component of the three-tier system is the "cash law" codified at Idaho Code § 23-1031 (beer) and Idaho Code § 23-1326 (wine). These sections prohibit the extension of credit for the licensed retail purchase of beer and wine products. This legislation amends these code sections to provide a five-day grace period for transactions utilizing electronic funds transfers. The legislation provides that such five-day grace period is not a violation of the cash law nor an unlawful acceptance of credit by a licensed retailer.

MOTION: **Senator McGee** made a motion to send RS 20577C1 and RS 20635 to print. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

S 1165 Relating to Abortion. **Senator Chuck Winder**, explained there is substantial medical evidence that an unborn child is capable of experiencing pain by 20 weeks after fertilization. It is the purpose of the State to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain, and the bill protects such unborn children by prohibiting abortion after 20 weeks postfertilization, except when the mother has a condition which so complicates her medical condition as to necessitate the abortion of her pregnancy to avert her death or to avert serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions, or it is necessary to preserve the life of an unborn child.

It is very difficult to determine the possible Fiscal Impact of this bill. The State of Nebraska has passed similar legislation and there has been no legal challenge of the legislation. Therefore, if no one legally challenges this bill, there will be no fiscal impact. However, should it be necessary for the state to defend the legislative action, there would possibly be some Fiscal Impact. However, the bill establishes a legal defense fund that would allow contributions of non-state money to provide for or aid the state in the defense of this legislation.

TESTIMONY: **Kerry Uhlenkott**, Legislative Coordinator, Idaho Right to Life; **Ferdinand Salvacion, MD**, Medical Director, Pain Management, Associate Professor of Anesthesiology, Southern Illinois University School of Medicine; **Sean Patrick Kenney, MD**, Director Maternal Fetal Medicine/Labor and Delivery-Saint Elizabeth Regional Medical Center, Lincoln, Nebraska; **Teresa Stanton Collett** Professor of Law, University of St. Thomas School of Law, Minneapolis, Minnesota; **David Ripley**, Executive Director, Idaho Chooses Life. **Christine Tiddens**, Legislative Advocate, Roman Catholic Diocese of Boise; **Julie Lynde**, Executive Director, Cornerstone; **Stacie Monaghan**, Capstone Student; all spoke in favor of S 1165 and submitted their testimonies for the record.

Dr. Woyurim, representing himself, spoke in opposition to this legislation, as he is a Doctor that performs elected abortions. **Marty Durand**, Legislative Council, Planned Parenthood of the Great Northwest, urged the committee to hold S 1165, due to a lack of scientific evidence to back up the claim that at 20 weeks gestation the fetus can feel the pain involved in the abortion process. **Ken McClure**, Legal Counsel, Idaho Medical Association, stated there was a conflict between this proposed legislation and how current Idaho Law is read. Mr. McClure stated Idaho Code § 18-608, subsection 3, contains a provision, which is absent in S 1165. In this legislation an abortion can not be performed after twenty weeks on a woman, unless she has a condition which either threatens her life or her own bodily function. Under current Idaho Code § 18-608, subsection 3, there is an additional basis of which an abortion may be performed in the third trimester, which is, if two physicians concur that there is a fetal anomaly and the life of the woman is at risk or if the fetus would be unable to survive then an abortion may be performed. Mr. McClure requested that S 1165 would accommodate the existing provision in Idaho Code § 18-608, subsection 3. **Hannah Brass**, Public Policy Director, ACLU of Idaho, spoke in opposition to S 1165 and submitted her testimony for the record.

MOTION: **Vice Chairman Fulcher** made a motion to send S 1165 to the floor with a do pass recommendation. **Senator Davis** seconded the motion. **Senator Stennett** made a substitute motion to send S 1165 to the fourteenth order for amendment. **Senator Malepeai** seconded the motion. The substitute motion failed by roll call vote with only Senators Malepeai and Stennett voting 'aye'. The motion to send S 1165 to the floor with a do pass recommendation passed by roll call vote 7-2.

RS 20547C1 **Senator Curt McKenzie**, explained this Senate Resolution recognizes the interest of the State of Idaho to promote relationships with the Turkish people.

MOTION: **Vice Chairman Fulcher** made a motion to send RS 20547C1 to print. **Senator McGee** seconded the motion. The motion carried by voice vote.

ADJOURNMENT There being no further business, **Chairman McKenzie** adjourned the meeting at 10:20 a.m.

Senator McKenzie
Chairman

Jennifer Novak
Office of the Secretary of the
Senate

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 18, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>GUBERNATORIAL APPOINTMENT</u>		
	Idaho Lottery Commission David Keyes, serving a term commencing January 1, 2011 and expiring January 1, 2016	
<u>HCR19</u>	The purpose of this resolution is to congratulate the Idaho National Laboratory on the 60th anniversary of Experimental Breeder Reactor I	Representative Jeff Thompson
<u>RS20614</u>	This legislation changes library districts, hospital boards, water and sewer districts, and auditorium district boards which currently have a six years term of office, to standardize them with other districts at four years.	Tim Hurst, Secretary of State
<u>PRESENTATION</u>		
	The Idaho Criminal Justice Commission Briefing on S1154 and H235	Steve Bywater, Sex Offender Management Subcommittee Jim Tibbs, Gangs Strategy Subcommittee
<u>RS20647</u>	This proclamation commends the College of Idaho Ski and Snowboard Team for their successes at the United States Collegiate Ski & Snowboard Association National Championships.	Senator John McGee
<u>RS20585</u>	The legislation makes technical corrections to workers compensation statutes and creates a requirement for submission of information to be included in an application for acceptance of a self insured plan by the Idaho Industrial Commission.	Senator John Goedde
<u>RS20641</u>	The bill will amend Idaho Code to conform to changes made by pending legislation (H260) in regard to the Industrial Commission and will require the Commission to adopt rules for adjustment of physician fees.	Senator John Goedde
<u>RS20650</u>	This part of Idaho's Students Come First legislation relates to public school modernization and reform.	Senator John Goedde

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 18, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, and Stennett

ABSENT/ EXCUSED: Senator Malepeai

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES: **Chairman McKenzie** called the meeting to order at 8:00 a.m. and welcomed guests. He stated there would be a change in the scheduled agenda and the Committee would begin with **HCR19**.

HCR19 **A Concurrent Resolution: Representative Jeff Thompson** stated the purpose of this House Concurrent Resolution is to congratulate the INL on the 60th anniversary of Experimental Breeder Reactor I (EBR-I) producing usable amounts of electricity from nuclear power, to celebrate the laboratory's nuclear achievements, to highlight construction of a new Energy Systems Laboratory on the INL campus, to recognize the Department of Energy and its contractors for meeting waste cleanup milestones, and to congratulate Governor C.L. "Butch" Otter and other parties in signing a Memorandum of Agreement to allow the import and research of small quantities of used commercial nuclear fuel. **Representative Thompson** requested the Committee send **HCR19** to the floor with a do pass recommendation.

MOTION: **Senator Davis** moved, seconded by **Senator Hill**, to send **HCR19** to the floor with a do pass recommendation. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: **David Keyes**, Sandpoint, ID, was appointed to the Idaho Lottery Commission to serve a term commencing January 1, 2011 and expiring January 1, 2016. **Mr. Keyes** stated that he has been on the Commission for the last 4 years and has enjoyed it. He provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

Senator Davis asked **Mr. Keyes** to clarify on his involvement with the Boy Scouts. **Mr. Keyes** stated that he was a Scout when he was younger and has been a Scout Advisor. **Senator Davis** asked what some of the bigger challenges are that face the Commission. **Mr. Keyes** answered the challenge is managing the public's money properly. **Senator Davis** noted that he has not been a fan of the lottery and worries that it becomes a problem for certain people. He asked what role **Mr. Keyes** played in these issues. **Mr. Keyes** replied his role is advisory. He makes sure responsible messages are put out but he cannot control what people do with their money. However, he does make sure all the money put into the lottery is given back to the state of Idaho.

Vice Chairman Fulcher asked if **Mr. Keyes** finds his role on the Commission fits with his life-style. **Mr. Keyes** responded that the Commission is a volunteer position and does fit with his life-style. It is not easy, but fulfilling. **Senator Hill** asked **Mr. Keyes** to explain how funds from the lottery are distributed among state Departments and what he does with that process. **Mr. Keyes** replied that a formula is used to divide the money and he makes sure that process is working right. **Senator Stennett** asked how Idaho chose this formula. **Mr. Keyes** answered that it is based on the overall money coming in and how the money can best help the state.

Chairman McKenzie thanked **Mr. Keyes** for appearing before the Committee and advised him that a vote on his appointment would be taken at the next meeting.

RS20614

Relating to Elections: **Tim Hurst**, Secretary of State, stated this legislation changes library districts, hospital boards, water and sewer districts, and auditorium district boards which currently have a six years term of office, to standardize them with other districts at four years. **Mr. Hurst** requested the Committee send **RS20614** to print.

Senator Davis asked why **Mr. Hurst** wants to change the terms from six to four years. **Mr. Hurst** answered that Legislators have asked for this change. **Senator Davis** asked if any of those Legislators are a part of this Committee. **Mr. Hurst** replied no. **Senator Stennett** asked if it is difficult to find people to serve for six years. **Mr. Hurst** responded that it depends on the Board.

MOTION:

Senator Davis moved, seconded by **Senator Lodge**, to return **RS20614** to the sponsor. The motion carried by **voice vote**.

RS20585

Relating to Worker's Compensation Law: **Senator John Goedde** stated this legislation makes technical corrections to workers compensation statutes and creates a requirement for submission of information to be included in an application for acceptance of a self insured plan by the Idaho Industrial Commission. Said application for a new plan shall include an actuarial analysis, a feasibility study and a business plan. Funds to support the plan shall be placed in a service fund where they cannot be comingled with other accounts. Further, it sets forth provisions for liquidation of such a plan and directs the Industrial Commission to promulgate rules. **Senator Goedde** requested the Committee send **RS20585** to print.

MOTION:

Senator Davis moved, seconded by **Senator McGee**, to send **RS20585** to print. The motion carried by **voice vote**.

RS20641

Relating to Worker's Compensation Law: **Senator Goedde** stated section 7 of H260, now pending before the 2011 Legislature, will repeal Section 56-136, Idaho Code. Section 72-803, Idaho Code, requires the Industrial Commission to use the methodology set forth in Section 56-136 to adjust physician fees each year. This bill will remove the reference to Section 56-136, Idaho Code, and require the Commission to adopt rules for an annual adjustment of those fees. It also removes obsolete language pertaining to the establishment of the original fee schedule. **Senator Goedde** requested the Committee send **RS20641** to print.

MOTION:

Senator Davis moved, seconded by **Senator Lodge**, to send **RS20641** to print. The motion carried by **voice vote**.

RS20650

Relating to Education: Senator Goedde stated this part of Idaho's Students Come First legislation relates to public school modernization and reform. The Idaho Legislature has a duty to ensure Idaho's schools are on firm financial ground. In the past two years, approximately \$200 million in state funds have been cut from Idaho's public school system. To ensure the state can educate more students at a higher level with limited resources, the state must reform and modernize the educational system. The Students Come First legislation reprioritizes statutory requirements to strategically invest in Idaho's educators and technology, and increases transparency for Idaho's public school system. **Senator Goedde** requested the Committee send **RS20650** to print.

MOTION:

Vice Chairman Fulcher moved, seconded by **Senator McGee**, to send **RS20650** to print. The motion carried by **voice vote**. **Senator Davis** stated that he will support the printing of **RS20650** but, based on his current understanding, he does not intend to support the legislation.

PRESENTATION:

Idaho Criminal Justice Commission: Brent D. Reinke, Director, Idaho Department of Corrections (IDOC), Chairman of Idaho Criminal Justice Commission (ICJC), began the presentation with a briefing regarding **S1154** and **H235**. He presented a document to the Committee from ICJC showing their strategies for 2011.

Director Reinke introduced **Steve Bywater**, Office of the Attorney General. **Mr. Bywater** discussed **S1154**. He stated Idaho amended sex offender laws in 1998 to create a violent sexual predator (VSP) designation. The VSP designation was challenged in *Smith v. Idaho*. In 2009 the Idaho Supreme Court ruled in favor of *Smith*, holding that the VSP designation was unconstitutional and violated offenders' due process. **S1154** will do three things. The first thing is it will allow Idaho to retain the 53 individuals currently designated as VSPs under a grandfather clause, while eliminating the unconstitutional VSP designation. The second thing it does is create a board charged with implementing best practices in sex offender management in Idaho, the Sex Offender Management Board. The third thing it does is add more accountability for sex offenders under the current registration system.

Jim Tibbs, ICJC, Chairman of the Gangs Strategy Subcommittee, and **Ellie Somoza**, Deputy Prosecutor, Canyon County, ID, presented the update on **H235** to the Committee. **Mr. Tibbs** stated **H235** is about gang suppression. This bill will add additional crimes to the original legislation to establish a pattern of criminal gang behavior. Injury by graffiti, human trafficking, disturbing the peace, malicious injury to property, sexual abuse under the age of 16 years, sexual exploitation of a child, lewd contact with a minor child under 16 years, and sexual battery of a child will be added. Also, crimes committed while incarcerated such as: escape, riot, or injuring jails will be added. **H235** will also change the punishment for gang members. The bill includes a 2 to 5 year enhancement for gang related crimes. **Ms. Somoza** stated that the enhancement for gang crimes has not been used often in Idaho and will mostly be used as a deterrent. She noted gang activity has grown throughout the entire state.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

Senator Hill asked how the present system used to designate sex offenders was unconstitutional. **Mr. Bywater** replied it was a denial of due process. **Senator McGee** asked what is currently happening with gang legislation. **Director Reinke** answered they are working on more legislation regarding working with young children to prevent gang activity and he stated that it is an ongoing process. **Vice Chairman Fulcher** asked if **Ms. Somoza** saw a connection between increased gang activity, the current economic situation, and the illegal immigrant population. **Ms. Somoza** responded that gang activity in Idaho does not have anything to do with the population of illegal immigrants. The economy does affect gang activity and there has been an increase in drug related crimes and theft. **Senator Lodge** asked if schools are cooperating to prevent gang activity. **Ms. Somoza** replied yes.

In response to questions from the Committee, **Tim Higgins**, IDOC Gang and Intelligence Coordinator, stated that a lot of research has been done on the gang problem in Idaho. Most gang members are not illegal immigrants. However, the drug cartel activity in Idaho has increased and involves many illegal immigrants.

Chairman McKenzie thanked **Mr. Reinke**, **Mr. Bywater**, **Mr. Tibbs**, **Ms. Somoza**, and **Mr. Higgins** for their presentation and for all the work they do to help Idaho.

RS20647

A Proclamation: **Senator John McGee** stated this proclamation commends the College of Idaho Ski and Snowboard Team for their successes at the United States Collegiate Ski & Snowboard Association National Championships. **Senator McGee** requested the Committee send **RS20647** to print.

Senator Stennett and **Senator Davis** thanked **Senator McGee** for bringing this legislation forward.

MOTION:

Senator Lodge moved, seconded by **Senator Winder**, to send **RS20647** to print. The motion carried by **voice vote**.

ADJOURNMENT:

There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 9:00 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 21, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1156</u>	This bill would amend the Telecommunications Act of 1988 by eliminating a requirement that telephone corporations file with the Public Utilities Commission tariffs or price lists for long distance and local exchange services they provide to business customers.	Amy Holly, Verizon Communications
<u>S 1177</u>	This legislation amends Idaho Code to provide a five-day grace period for transactions utilizing electronic funds transfers.	Jeremy Pisca, Idaho Beer & Wine Distributors Association
<u>S 1178</u>	This law amends Idaho Code by allowing for a five business day extension of credit by wholesalers to retailers.	Roy Eiguren, Northwest Grocery Association

GUBERNATORIAL APPOINTMENT

Confirmation vote on David Keyes to the Idaho Lottery Commission

MINUTES APPROVAL

March 9, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 21, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, and Stennett

ABSENT/ EXCUSED: Senator Edgar Malapeai

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES Chairman McKenzie called the meeting to order at 8:05 a.m.

S 1156 Relating to the Telecommunications Act of 1988. **Amy Holly**, Verizon Communications, introduced Milt Doumit, Vice President of Governmental Affairs, Verizon Communications. **Mr. Doumit** explained this legislation would amend the Telecommunications Act of 1988, Idaho Code sections 62-606 and 62-622, by eliminating a requirement that telephone corporations file with the Public Utilities Commission tariffs or price lists for long distance and local exchange services they provide to business customers. Under current law, tariffs or price lists for interexchange services are filed "for information purposes" only, and the Public Utilities Commission does not regulate the prices for local exchange services provided by competitive telephone corporations. Instead of filing tariffs or price lists with the Commission, the bill would permit a telephone corporation to maintain the rates, terms and conditions of its services on its public website to which the Commission would also have access. On-line service guides offer customer convenience, as they provide an easily-accessible, single source of information about all of a carrier's services, and are easier to administer. The bill preserves the Commission's existing authority to resolve customer complaints.

Senator Stennett questioned if they were giving advance notice to their customers about a change in prices? **Mr. Doumit** replied yes, the changes will be noted on the website, inserts in their statements, and through e-mail alerts for those who are signed up to receive them.

MOTION: **Senator McGee** made a motion to send S 1156 to the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by voice vote.

Chairman McKenzie informed the Committee that there was a change in the agenda. Since the parties involved in S 1177 and S 1178 have come to a consensus for legislation, the individual bills, will not be heard. In their place RS 20658 has been drafted and given to the Chairman to be heard.

RS 20658

Relating to Alcoholic Beverages. **Roy Eiguren**, Northwest Grocery Association, and **Jeremy Pisca**, Idaho Beer & Wine Distributors Association, presented the legislation. **Mr. Pisca** explained as is the case with the overwhelming majority of states, Idaho utilizes a three-tier regulation system for licensed suppliers, distributors and retailers of beer and wine products. A critical component of the three-tier system is the "cash law" codified at Idaho Code § 23-1031 (beer) and Idaho Code § 23-1326 (wine). These sections prohibit the extension of credit for the licensed retail purchase of beer and wine products. This legislation amends these code sections to provide a five-day grace period for transactions utilizing electronic funds transfers. The legislation provides that such five-day grace period is not a violation of the cash law nor an unlawful extension or acceptance of credit, provided that an electronic funds transfer is initiated and completed as promptly as is reasonably practical, and in no event completed later than five business days following delivery of beer or wine products. **Mr. Pisca** requested that the committee would print RS 20658 and send it to the 12th Order with a do pass recommendation, and hold S 1125, S 1136, S 1178, and S 1177 in committee. **Mr. Pisca** and **Mr. Eiguren** both agreed for the record that this legislation meets both of their clients needs.

Senator Davis questioned if either one of the sides is unhappy with the interpretation of the oral representation in today's meeting and brought forth legislation would that be a violation of the informal two year agreement between both of the parties. **Mr. Pisca** replied it would not. **Senator Davis** inquired what would the penalty under law if the retailer did not make the fund transfer within the five day grace period. **Mr. Pisca** stated a complaint would be filed with the Department of Alcohol Beverage Control which is under the directive of the Idaho State Police. They would investigate the claim and if they were found in violation it could result in a suspension of licensing or the complete revocation of a license.

MOTION: **Senator Davis** made a motion to print RS 20658, and upon the receipt of the print report the Chairman is authorized to submit a committee report with the recommendation that the RS after receiving a bill number be sent to the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by voice vote.

MOTION: **Senator Davis** made a motion to hold S 1125, S 1136, S 1177, and S 1178 in committee. **Senator McGee** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION **Chairman McKenzie** stated the committee would vote on the recommendation to confirm the appointment of David Keyes to the Idaho Lottery Commission to serve a term commencing January 1, 2011 and expiring January 1, 2016.

MOTION: **Vice Chairman Fulcher** moved to send the gubernatorial appointment of David Keyes to the Idaho Lottery Commission to the Senate floor with a do confirm recommendation. **Senator McGee** seconded the motion. The motion carried by voice vote.

MINUTES: Since there was a lack of a motion to approve the minutes of March 9, 2011, it will be deferred to the following meeting.

ADJOURNMENT: There being no further business **Chairman McKenzie** adjourned the meeting at 8:32 a.m.

Senator McKenzie
Chairman

Jennifer Novak

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>GUBERNATORIAL APPOINTMENT</u>		
Idaho Public Utilities Commission Paul Kjellander, serving a term commencing March 28, 2011 and expiring January 10, 2017		
<u>RS20041C1</u>	Amending Idaho Code regarding the Bingo and Raffles Act to conform to standing practices.	Jeff Anderson, Idaho Lottery Commission
<u>RS20655</u>	This resolution commends the Commander and Crew of the USS Boise for winning numerous United States Navy Awards	Senator Chuck Winder
<u>RS20612</u>	This legislation provides that upon enactment, Idaho will join an interstate compact awarding the state's electoral votes to the Presidential and Vice-Presidential candidates who win the most popular votes in all fifty states. The legislation preserves the Electoral College and Idaho's exclusive state power to allocate electors.	Jeremy Chou, Givens Pursley, LLP

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee
Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 23, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 a.m. and welcomed the guests.

GUBERNATORIAL APPOINTMENT **Paul Kjellander** was appointed to the Idaho Public Utilities Commission to serve a term commencing March 28, 2011 and expiring January 10, 2017. He expressed that it was an honor to be reappointed to the Commission. He provided the Committee with a short biography of his professional and personal life.

Senator Stennett asked **Mr. Kjellander** to brief the Committee the history on his background experience. **Mr. Kjellander** responded that he was born and raised in Illinois. He was raised as a Republican and believes all Republicans should be able to quote Abraham Lincoln. He attended college in Ohio and majored in Communications. He moved to Idaho in 1987. **Chairman McKenzie** asked how the Commission interprets State and Federal Statute. **Mr. Kjellander** answered the Commission does not set the rules, they make sure they are applied in the proper way.

Chairman McKenzie thanked **Mr. Kjellander** for appearing before the Committee and informed him that a vote on his appointment would be taken at the next meeting.

RS20655 **A Concurrent Resolution:** **Senator Winder** stated the purpose of this legislation is to commend the commander and crew of the USS Boise, SSN-764, for winning numerous United States Navy awards including awards for battle efficiency, medical supply, communications, navigation and engineering. **Senator Winder** requested the Committee send **RS20655** to print.

MOTION: **Vice Chairman Fulcher** moved, seconded by **Senator McGee**, to send **RS20655** to print. The motion carried by **voice vote**.

RS20612 **Relating to an Agreement Among the States to Elect the President by National Popular Vote:** **Jeremy Chou**, Givens Pursley, LLP., stated this legislation provides that upon enactment, Idaho will join an interstate compact awarding the state's electoral votes to the Presidential and Vice-Presidential candidates who win the most popular votes in all fifty states. The legislation preserves the Electoral College and Idaho's exclusive state power to allocate electors. **Mr. Chou** requested the Committee send **RS20612** to print.

Representative Sharon Block spoke in support of **RS20612**. She stated that many states and Legislators have approved this Legislation. This bill preserves the Electoral College, it does not abolish the Electoral College. This will allow the voices of citizens to be heard and expand the voice of Idaho.

Senator Davis asked how the 12th Amendment to the Constitution affects this legislature. **Representative Block** responded the 12th Amendment requires electors to cast a separate ballot for President and Vice President. **Senator Davis** asked how this legislation will deal with faithless electors. **Representative Block** replied that this will not affect legislation about faithless electors. Faithless electors are electors picked to vote for a certain candidate but then votes for another candidate.

Vice Chairman Fulcher questioned how the compact with Idaho joining other states would mathematically shift the scale to reflect more of the popular vote? **Representative Block** replied that currently if your state awards all of the state electors to the candidate that wins your state, under national popular vote the state of electors would be award to the candidate that wins your state. Under national popular vote, the state of electors would be awarded to the candidate that wins the most popular votes in all fifty states. Mathematically this legislation does not change the number of electoral votes, therefore, the voice of state does not change at all. However, it layers on top of that an additional practical voice, a practical voice that means your margin of victory here in Idaho would be leveraged in a way that would actually advance the cause of the candidate because every single vote would be utilized.

President Pro Tempore Hill inquired if this legislation includes the status quo of "winner takes all" based on the majority of the popular votes? **Representative Block** responded yes.

MOTION: **Senator McGee** moved, seconded by **Senator Stennett**, to send **RS20612** to print. The motion carried by voice vote with **Senator Hill** and **Senator Davis** voting "Nay."

RS20041C1 **Relating to Bingo and Raffles: Amber Finch**, Idaho Lottery Commission, stated the Lottery seeks approval to make a number of statutory amendments in the Bingo and Raffles Act located in Title 67, Chapter 77, Idaho Code. The Lottery's Security Division is tasked with administering and controlling all bingo games and raffles to protect the public from fraudulently conducted bingo games and raffles and to ensure operation of the same is in the best interest of raising moneys for charitable purposes. In performing its duties, the Lottery has recognized that changes need to be made to the controlling statutes to: conform to standing practices and expectations of the Lottery and charitable bingo and raffle licensees; increase allowed expenditure percentages, (while retaining twenty percent (20%) minimum to charity) for charitable bingo and raffle licensees; to remedy inconsistencies and clarify certain ambiguities in statutory language; and eliminate outdated or unnecessary statutory requirements.

MOTION: **Senator Winder** moved, seconded by **Senator Hill**, to send **RS2004C1C** to print. The motion carried by **voice vote**.

MOTION: **Senator Stennett** moved, seconded by **Senator Hill**, to approve the March 9, 2011 minutes as written. The motion carried by **voice vote**.

ADJOURNMENT: **Vice Chairman Fulcher** recognized the Borah High School Students who had attended the meeting. There being no further business to come before the Committee, **Chairman McKenzie** adjourned the meeting at 9:00 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

**AMENDED #2 AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW02
Friday, March 25, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20676</u>	This proclamation commends the North Idaho College women's basketball team for winning a national title, recognizes three North Idaho College Sophomores named to an all-tournament team, and recognizes the NIC women's basketball team for their Academic All-American status.	Senator John Goedde
GUBERNATORIAL APPOINTMENT VOTE	Paul Kjellander to Idaho Public Utilities Commission for the term March 28, 2011 - January 10, 2017	
<u>RS20673</u>	This bill is to correct an inadvertent error regarding a retroactive date in SB1103 (2011) dealing with child support collections.	Senator Patti Anne Lodge
<u>RS20684</u>	Amends HB0260 (2011) related to medicare by removing an exception.	Senator Patti Anne Lodge
<u>H 222</u>	This legislation clarifies the authority of the board of regents of the University of Idaho, the boards of trustees of the state colleges and universities, the board of professional-technical education, the boards of trustees of each of the community colleges established under Chapter 21, Title 33, Idaho Code, and dormitory housing commissions established under Chapter 21, Title 33, Idaho Code to regulate the possession of firearms.	Representative Eric Simpson

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Vice Chair Fulcher
Sen Davis
Sen Hill
Sen McGee

Sen Winder
Sen Lodge
Sen Malepeai
Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell
Room: WW42
Phone: (208) 332-1326
email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 25, 2011

TIME: 8:00 A.M.

PLACE: Room WW02

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

ABSENT/EXCUSED:

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT

Confirmation vote on **Paul Kjellander** to the Idaho Public Utilities Commission.

MOTION: **Senator Lodge** moved, seconded by **Senator McGee** to send the appointment to the Senate floor with a do pass recommendation. The motion carried by voice vote.

RS20676 **Senator Goedde** brought this RS before the Committee explaining that it is a proclamation commending the North Idaho College Women's Basketball team for their success as the first Region 18 National Junior College Athletic Association women's basketball team to win a national title. This proclamation also recognizes North Idaho College sophomores **Kama Griffitts**, **Camille Reynolds**, and **Tugce Canitez**, who were named to the National Junior College Athletic Association All-Tournament Team, as well as the entire NIC women's basketball team which has achieved five consecutive years of national Academic All-American status.

MOTION **Senator McGee** moved, seconded by **Senator Lodge**, that the Committee send RS20676 to print. The motion carried by voice vote.

RS20673 This bill is to correct an inadvertent error regarding a retroactive date in SB1103 (2011) dealing with child support collections.

RS20684 Amends HB0260 (2011) related to Medicare by removing an exception.

MOTION **Senator Lodge** moved, seconded by **Senator Winder**, to print RS20673 and RS20684 and return them to the germane committee. Motion carried by voice vote.

H222 Relating to Board of regents of University of Idaho, boards of trustees of state colleges and universities, board of professional-technical education, boards of trustees of community colleges established under Chapter 21, Title 33, Idaho Code, and dormitory housing commissions established under Chapter 21, Title 33, Idaho Code to regulate the possession of firearms.

Representative Erik Simpson provided a handout. He stated it is a basic human right to be able to protect yourself from someone who wants to harm you. He stated those rights are being denied by Idaho state colleges and universities by instituting bans on the possession and defensive use of firearms. They make no exceptions for storage of sporting firearms in locked vehicles or off campus. H222 brings Idaho colleges and universities back into conformity with Idaho laws related to firearms. Even campus law enforcement officials do not carry firearms.

Representative Simpson summarized that Virginia Tech was a “gun free zone” in 2007 when an armed gunman violating that policy killed 32 people. It took armed law enforcement over nine minutes to respond after shooting began. It happened in Iowa in 1991, at the Virginia Appalachian School of Law in 2002, and at the University of Arizona Nursing School in 2002. The most common violent crimes that occur on campus include assault and rape. House Bill 222 would allow the public, faculty, and students who have concealed weapons permits to carry firearms on campus. The exception is that H222 would allow colleges and universities to regulate firearms possession in undergraduate student housing.

Representative Simpson stated that this is a compromise to those who have raised this concern in the past. House Bill 222 does not create a right to openly carry on college campuses. That right is already guaranteed by section 11 of the Idaho State Constitution and that right cannot be taken away by Idaho colleges and universities or by the Legislature. In 1978, SJR116 received a resounding 82.5% of voter support, the highest initiative support since 1930 and the third highest in the State’s history. Twenty-six colleges currently allow the public, faculty, and students to carry firearms. Over 70 campuses in Utah and Colorado allow people to exercise their Second Amendment right without incident. The NCAA will continue to host events in Idaho should H222 pass. H222 has the support of the National Rifle Association, the support of the Fraternal Order of Police, the Idaho Freedom Foundation, the Idaho Sport Shooters Alliance, and the National Organization of Students for Concealed Carry.

Representative Simpson asked **Chairman McKenzie** for permission to yield time to co-sponsor **Representative Marv Hagedorn**.

Handout was provided. Article 1, Section 11, of Idaho State Constitution to define what H222 is not. The first line of Article 1, Section 11, states that people have the right to keep and bear arms. It defines that Idaho is an open carry state. The current policies on our campuses are not in conformance with the Idaho Constitution. This bill is about concealed weapons, not open carry.

Representative Hagedorn stated that television commercials allude to officers taking four minutes to respond. Commercials provide a false sense of security and we must take care of ourselves for that four minute period of time. By disallowing concealed weapon permit holders on campus we have taken away the ability of those who choose to protect themselves. As concealed weapons permit holders they go through training, fingerprinting, and background checks. He stated that he does not believe the policies on state campuses are constitutional.

Changing topics briefly, **Chairman McKenzie** stated that **Bud Tracy** is present at the request of the Committee secretary. The Committee secretary has been ill, and the appointment is not on the agenda today. **Chairman McKenzie** thanked **Mr. Tracy** for being present and the appointment will be scheduled for the next meeting.

Chairman McKenzie took the discussion back to the concealed weapons issue and asked if there were questions of the presenters. There were none. He stated that Boise State University has four individuals that wanted to testify.

The following individuals testified before the Committee and were PRO House Bill 222:

Joel Teuber, Fraternal Order of Police
Parrish Miller
Brent Jons
Kassi Sawmiller
Jonathan Sawmiller, UI Hunting and Fishing Club
Charlotte Twilight
Mike Brown, Idaho Sport Shooters Alliance
Brandon Hurt
Richard Twilight
Matt Dogali, National Rifle Association
A.J. Ellis
Greg Ferch

The following individuals testified before the Committee and were AGAINST House Bill 222:

Marty Peterson, Special Assistant to the President, University of Idaho
Michael Blankenship
Mark Goddard
David Duke, Moscow Police
Joe Uda, Boise State University
Randy Roper, Boise State University
Kevin Satterlee, Boise State University
Bruce Newcomb, Boise State University
Stan Bastian, College of Western Idaho
Mark Browning, State Board of Education
Zach Snoderly, Boise State University
James Grarat, Boise State University
Kent Kunz, Idaho State University
Stephen Heleker, President, Associated Students
Charmaine Read
Dwight Scarbrough

Senator Stennett asked **Marty Peterson** whether University of Idaho campus police carry firearms. **Mr. Peterson** responded that they do not, but City of Moscow Police do play a roll.

Senator Winder asked **Joel Teuber** whether Idaho is a do carry, exposed weapon type of state. **Mr. Teuber** responded, "yes, it is."

Senator Hill stated that **Mr. Teuber** indicated that campuses that do not allow guns would be more likely targets for someone who wanted to cause harm. Are any studies to verify that, or is that just a personal feeling? **Mr. Teuber** responded that he attended two seminars on school shootings, including the Virginia Tech shooting. The experts involved in teaching those seminars indicated that the way to prevent bad things from happening at schools is to arm those targets.

Senator Stennett presented the scenario and asked if someone is loose with a gun, and there are people in the classroom with concealed weapons, how is that situation kept under control. He responded that the type of situation described will be chaotic no matter what. He stated that concealed weapons holders just provide an additional level of security. **Senator Stennett** expressed concern about whether someone could get hurt because they are afraid and do not have training. **Mr. Teuber** stated that obviously they do not have the training the police officers do, but do have certain level of training. There is always risk, but citizens do have responsibility to protect themselves and their families.

Senator Hill asked **Mike Blankenship** about the rate of suicide among college age students. He responded that one study revealed about half of all college students will contemplate suicide at least once in their lives. About 5 percent of college students who attempt suicide are successful.

Senator Hill repeated a statement that suicide is the second leading cause of death among college age people, and asked if accidents were the leading cause. **Mr. Blankenship** stated accidents, including vehicle accidents, were the leading cause.

Senator Hill asked **David Duke** whether alcohol is allowed on campus, or only in restricted areas. What is the policy? **Mr. Duke** stated that the City of Moscow has open container restrictions while in city limits and the University is in the city. During sporting events, private staging areas are allowed and students can drink in their rooms. **Senator Hill** restated his question; are there any places on U of I campus where the use of alcohol is allowed, whether done privately or publicly? **Mr. Duke** responded yes and catering permits are issued routinely which include alcohol.

Senator Davis asked **Jonathan Sawmiller** "Are the leaders of my church wrong in precluding guns on campus at BYU and BYU Idaho?" **Mr. Sawmiller** responded that BYU Idaho a private institution on private property owned by your church. **Senator Davis** asked "From a safety point of view are the leaders of my church wrong?" **Mr. Sawmiller** responded that they have made a risk-based decision that they are entitled to make as owners of private property. He added that as a state institution that is a decision that the University of Idaho is not entitled to make. **Senator Davis** asked if he understood **Mr. Sawmiller's** testimony correctly, that people who have concealed weapon permits generally have the same type of conduct off campus as they would have on campus – is that correct? **Mr. Sawmiller** said he understood correctly.

Senator Davis told **Mr. Sawmiller** and the Committee eight years ago his 23-year-old son was shot by a concealed weapon permit holder, both BSU students, off campus, in a college environment. **Senator Davis** stated this is not just an intellectual exercise for him and his family. He asked that presenters please be sensitive in couching their remarks. **Mr. Sawmiller** offered his condolences to **Senator Davis**.

Senator Hill asked **Randy Roper** if his testimony stated accurately "guns on campus do not reduce crime." **Senator Hill** asked if there are studies to support that claim. Mr. Roper stated that his testimony is "there is no credible evidence that weapons deter crime on campus."

Senator Davis asked **Charlotte Twight** her opinion, from a safety point of view, whether the leaders of his church are wrong by precluding guns on campus. Her response was that based on factual evidence they have made what seems to her to be an incorrect judgment, but have the total right to do so as a private organization.

Senator Hill stated concerns about the number of suicides on college campuses. He asked **Stan Bastian** whether he believed the number of suicides on college campuses would increase as a result of having more access to concealed weapons. **Mr. Bastian** responded that he believed it would provide an opportunity for someone who is suicidal, and rates of suicide would go up.

Vice Chairman Fulcher stated that one testimony had to do with response time and training. He asked **Matt Dogali** to provide insight on that issue. **Mr. Dogali** referred to a 20/20 video that was well-staged but impractical. The difference between a fine motor skill and gross motor skill is very real. Your ability to do the small functions when you get nervous is reduced. However, gross motor skills are still readily available. You can still visualize an engaging target and place center mass shots. **Mr. Dogali** explained the staging in the video and the shortfall in the scenarios.

Senator Stennett stated that in a sudden situation, where someone is not as well trained, and probably moving, that person wouldn't be as efficient as someone who is trained. She asked what could happen in such a situation. **Mr. Dogali** stated that 80 percent of engagements take place within 21 feet, and while some rounds would miss, others would hit. He stated in these situations limited training is not a factor.

Chairman McKenzie recognized **Vice Chairman Fulcher** who thanked those who testified. He stated that he wondered about some venues where the venue itself is designed to drive emotion or heighten tension, like entertainment or athletic events.

MOTION

Vice Chairman Fulcher moved, seconded by **Senator Lodge**, to send House Bill 222 to the 14th Order.

Chairman McKenzie asked whether there was discussion on the motion.

Senator Lodge commented that we have faced some very difficult issues, but this issue one of the most difficult. She comes from a gun-owning family, and she has her freedom taken away for three months. She stated she was placed on 24-hour security, and knows the importance of being able to protect oneself. She thanked those that testified because they brought other perspectives to today's discussion. We can make this a better bill by just a few amendments and she would ask those in the House to work with **Vice Chairman Fulcher** on the bill. **Senator Lodge** stated she is an NRA member and believes thoroughly in our Constitutional rights.

Senator Hill stated that he couldn't remember a time when a highly emotional, controversial issue comes out better when it goes to the 14th Order of Business, and gets placed in the hands of people who have not had the opportunity of hearing the testimony. He stated this is high priority for people on both sides of the issue. By considering amendments we would be acknowledging that there are times and places where guns are not appropriate on campuses, and that we think that we know better where those times and places are – better than those that we have charged with the duty to safeguard, manage, and take responsibility for those on their campuses. Once again we demonstrate, as we have before, that our lips preach local control but our hearts are far from it. **Senator Hill** stated he would not be supporting the motion.

Chairman McKenzie asked for any other discussion. Being none, he called for a roll call vote on the motion to send House Bill 222 to the Amending Order:

Vice Chairman Fulcher Aye
Senator Davis No
Senator Hill No
Senator McGee No
Senator Winder No
Senator Lodge Aye
Senator McWilliam No
Senator Stennett No
Chairman McKenzie Aye

ADJOURN

Being no further business, **Chairman McKenzie** adjourned

Senator McKenzie
Chairman

Karla Mitchell
Secretary

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 28, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 a.m.

RS 20705 **Chairman McKenzie** stated due to the fact that they are still waiting for the draft of this RS they will come back to it later.

RS 20692 Relating to Taxidermists and Fur Buyers. **Senator Monty Pearce** explained the purpose of this legislation is to amend Idaho Code 36-603 to provide that commercial tanneries receiving wildlife from a licensed taxidermist or fur buyer shall satisfy all record keeping requirements by recording the license number of each taxidermist or fur buyer and recording tag numbers of an attached tags required by law. Provides procedure for states that do not require fur dealer or taxidermy license.

Chairman McKenzie explained this legislation came from the Resources and Environment Committee with a unanimous consent request to send it to print.

MOTION: **Vice Chairman Fulcher** made a motion to send RS 20692 to print. **Senator McGee** seconded the motion. The motion carried by voice vote.

S 1192 Relating to Bingo and Raffles. **Amber French**, Idaho Lottery, stated the Lottery seeks approval to make a number of statutory amendments in the Bingo and Raffles Act located at Title 67, Chapter 77, Idaho Code. The Lottery's Security Division is tasked with administering and controlling all bingo games and raffles to protect the public from fraudulently conducted bingo games and raffles and to ensure operation of the same is in the best interest of raising moneys for charitable purposes. In performing its duties, the Lottery has recognized that changes need to be made to the controlling statutes to: conform to standing practices and expectations of the Lottery and charitable bingo and raffle licensees; increase allowed expenditure percentages, (while retaining twenty percents (20%) minimum to charity) for charitable bingo and raffle licensees; to remedy inconsistencies and clarify certain ambiguities in statutory language; and eliminate outdated or unnecessary statutory requirements.

Senator Lodge questioned if there was a quilt raffle would the individuals have to keep records for five years now instead of ten? **Ms. French** replied licensed organizations have to keep a copy of the records. Under current statute, if the prize meets or exceeds one thousand dollars in market value then the organization is required to have a license and maintain their records.

Russell Westerberg, Green Group, Coeur d'Alene Racing, stated his client supports changing fifteen percent to a maximum of eighteen percent of gross revenues that may be used for administrative expenses associated with the charitable bingo game.

Jeremy Chou, Givens Pursley, stated they support this legislation as it strikes a good balance between oversight and flexibility for the lottery. Mr. Chou further clarified that if the item is over one hundred dollars then the organization is required to maintain a record. Pg 7, subsection 2, line j.

Marshall Garrett, President, Board of Opera Idaho, having been a bingo operator for the last eighteen months stated his support for S 1192. Mr. Garrett stated by increasing the threshold to eighteen percent for administrative costs will allow more flexibility especially for groups that have to rent a hall to use. Also by changing the language in 67-7712 subsection 2 from "shall" to "may" gives the Lottery Commission more discretion in its enforcement activities, not all regulatory violations are equal nor should all of the enforcement actions be the same.

Alex McNish, Executive Director, Treasure Valley Community Television, stated her support for the increase in percentage for administrative costs as it will help with expansion.

Senator Davis questioned if by raising the percentage to eighteen percent does that make it more profitable for bingo retailers? **Ms. French** replied the percentages have not changed since 1994 and with the increase in utilities and wages it has been difficult for the retailers to stay at the fifteen percent maximum. This change is not so the retailers can expand, it is so they can survive. **Senator Davis** stated according to some of the testimony this increase will allow for expansion and increase profitability. He stated he did not feel comfortable with that and if Ms. French could alleviate his anxiety. **Ms. French** stated if they do not make the change it will be difficult for retailers to meet the percentage resulting in revocation or suspension of licensing. The hard costs of running these organizations have increased, however, the percentages have not making it very difficult for the organizations to continue to operate. **Senator Davis** requested clarification as two different amounts were noted in testimony, one hundred dollars and one thousand dollars, which amount is correct for organizations in order to maintain records? **Ms. French** stated the one hundred dollar amount refers to a bingo prize, the one thousand dollar limit refers to raffles, however, on page 9 it states if the prize or prizes exceeds ten thousand dollars then the licensed charitable or nonprofit organizations conducting the raffle shall maintain a written record.

Senator McGee questioned why there was an exception to duck races in charitable raffles? **Ms. French** stated their expenses are higher compared to a normal raffle because they have to rent the ducks and the software so they are a different form of a raffle.

MOTION: **Senator McGee** stated that due to the concerns and questions that were not completely answered he made a motion to hold S 1192 in committee. **Senator Winder** seconded the motion. The motion carried by voice vote.

RS 20691 Relating to Cooperative Marketing Associations. **Senator Brent Hill** explained this legislation clarifies that Idaho Agricultural Cooperatives are qualified business entities and are permitted to conduct business in the same manner they have in the past.

MOTION: **Senator McGee** made a motion to send RS 20691 to print. **Senator Lodge** seconded the motion. The motion carried by voice vote.

RS 20705C1 Relating to Elections. **Chairman McKenzie** explained the purpose of the bill is to comply with a federal court ruling regarding the constitutionally required rights of association by legally recognized political parties in a partisan primary election. The fiscal impact of the legislation on the General Fund would be approximately \$215,000 to the general fund for new voter registration cards and to conduct a voter information campaign; and would cost the counties an additional \$160,000 for additional poll workers, data entry and increase in ballot printing cost depending on the length of the ballot.

MOTION: **Vice Chairman Fulcher** made a motion to send RS 20705 to print. **Senator Lodge** seconded the motion. The motion carried by voice vote.

ADJOURNMENT: There being no further business **Chairman McKenzie** adjourned the meeting at 8:55 a.m.

Senator McKenzie
Chairman

Jennifer Novak

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 30, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H 257</u>	This resolution continues certain administrative rules in full force and effect until July 1, 2012.	Mike Nugent
<u>H 233</u>	The purpose of this legislation is to allow the State Controller and designees to access applicable records currently exempt from public record disclosure in the course of conducting the duties of the State Social Security Administrator.	Dan Goicoechea, Idaho State Controller's Office
<u>GUBERNATORIAL APPOINTMENTS</u> (telephone interview)		
State Building Authority Shelly Jo Enderud, serving a term commencing September 23, 2010 and expiring January 1, 2016.		
Bud Tracy, serving a term commencing January 1, 2011 and expiring January 1, 2016		
<u>H 277</u>	This legislation addresses the disparity that makes five of the State's seven constitutional offices the only agencies in state government that have no ability to use legal services outside the Attorney General	Representative Clifford Bayer
<u>S 1198</u>	The purpose of the bill is to comply with a federal court ruling regarding the constitutionally required rights of association by legally recognized political parties in a partisan primary election.	Senator Brent Hill

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

email: kmitchell@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 30, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 8:00 a.m.

H 277

Relating to the Attorney General. **Representative Clifford Bayer**, explained this legislation addresses the disparity that makes five of the State's seven constitutional offices the only agencies in state government that have no ability to use legal services outside the Attorney General. Under current law, the legislative and judicial branches and the Governor each have the ability to utilize outside legal services, rather than the Attorney General's office. In addition, the Governor has the ability to issue a finding that allows any executive branch agency under the Governor to utilize legal services outside the Office of the Attorney General. This leaves the five other constitutional officers (Lieutenant Governor, Secretary of State, State Treasurer, State Controller, and Superintendent of Public Instruction), as executive branch agencies outside the control of the Governor, with no legal ability to utilize legal services outside the Attorney General.

There will be no fiscal impact. However, if a constitutional officer chooses to utilize legal services from outside the Attorney General's office, the funds used to do so would be the funds that they are currently paying for Attorney General services. The necessary FTP authorization could also be transferred from the authorized positions in the Attorney General's budget that currently serve as the legal counsel for other constitutional officers.

Senator McGee questioned if the constitutional officers were requesting this change? **Representative Bayer** stated they have not specifically requested this change, however, these constitutional offices do not have the flexibility that other state agencies are allowed.

Senator Stennett stated she understands there has been some disagreement about some of the opinions that have come from the Attorney General's office, however, if some agencies have to use in house legal services and others out of house legal services how will they be able to achieve good governing and policy making in the legislature. **Representative Bayer** replied the legislature is entirely provided for in Idaho Code as well as all of the other agencies and departments under the Governor's office. This legislation simply addresses the other constitutional offices that are unique .

Senator Hill stated as he recalled the rate at which the Attorney General charged was very reasonable compared to what attorney's normally charge. So it seems this legislation would create a higher fiscal impact for agencies. **Representative Bayer** stated these types of decisions must have the justification, and are justified to the legislature during the appropriations process. Also, we need that flexibility when a partisan decision could be the outcome.

Brian Kane Deputy Attorney General, stated the Attorney General does not have a problem with this concept, and understands the need for the constitutional officers to retain their own legal counsel. However, their primary concern is who will pay for these services, because currently the state does not have enough appropriations to provide for this service. The Attorney General's office still has a general responsibility for the officers, so this out of house service is in addition to the in house legal services provided.

Senator Stennett inquired what the cost difference was between the Attorney General's office and outside legal advice? **Mr. Kane** stated between \$27.00 to \$55.00 dollars an hour, and the average cost per hour for outside legal services is \$125.00 dollars an hour.

Senator McGee questioned if Representative Bayer would have any problem with a small language change. **Representative Bayer** replied he did not.

MOTION: **Senator McGee** made a motion to send H 277 to the 14th Order for amendment. **Senator Stennett** seconded the motion.

Senator Davis stated he does not believe this is the right public policy as it may begin to erode the policy we currently have in place.

The motion carried by voice vote.

GUBERNATORIAL APPOINTMENT **Shelly Jo Enderud** of Post Falls, Idaho was appointed to the State Building Authority to serve a term commencing September 23, 2010 and expiring January 1, 2016.

GUBERNATORIAL APPOINTMENT **Bud Tracy** of Malta, Idaho was appointed to the State Building Authority to serve a term commencing January 1, 2011 and expiring January 1, 2016.

Chairman McKenzie stated the appointments would be voted on at the next meeting.

H 257 Relating to Administrative Rules. **Mike Nugent**, Division Manager, Research and Legislation, explained this resolution, better known as the "drop dead bill", continues certain administrative rules in full force and effect until July 1, 2012.

MOTION: **Senator McGee** made a motion to send H 257 to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion. The motion carried by voice vote.

H 233 Relating to the Duties of the State Controller. **Dan Goicoechea**, Idaho State Controller's Office, explained the purpose of this legislation is to allow the State Controller and designees to access applicable records currently exempt from public record disclosure in the course of conducting the duties of the State Social Security Administrator.

MOTION: **Senator Winder** made a motion to send H 233 to the Senate floor with a do pass recommendation. **Senator McGee** seconded the motion. The motion carried by voice vote.

Relating to Elections. **Senator Hill** stated four weeks ago today the Honorable Judge Lynn Winmill declared that Idaho Code 34-904 was unconstitutional. This deals with our primary elections process, and it states presently, "There shall be a single primary election ballot on which the complete ticket of each political party shall be printed." The Judge stated, "Because of the open primary commits substantial numbers of independent voters as well as voters associated with other political parties to crossover and participate in Republican party's selection of its nominees. The clerk influenced that by mandating such a nomination process the state violates the parties constitutional guaranteed right to freedom of association." Therefore it is up to the legislature to structure the primary election process without mandating how the political parties chooses their candidates.

Senator Lodge questioned if the individual could register for the party of their choice or only as a republican or democrat? **Senator Hill** stated any party affiliation they would prefer.

Senator Stennett asked how early would an individual have to unaffiliate in order to not be associated with a particular party? **Senator Hill** responded for the 2012 election unless they have pre-registered and chosen an affiliated party they would then have to affiliate on the day of election by the ballot they choose. After that they are affiliated with the affiliated ballot. The individuals can still change their affiliation by re-registering. **Senator Stennett** questioned if this new form of voting still allowed an element of privacy as to which party the individual is affiliated with? **Senator Hill** replied at that moment it would depend on how private the precinct would make it, however, it is public record.

Senator Malepeai stated why wouldn't an individual be able to make an affiliation change on the day of election? **Senator Hill** answered if they are unaffiliated then the individual has up until the election date.

Gary Allen, Attorney representing Independent Voters, stated the court held that the current open primary system infringes on the associational rights of the Idaho Republican Party and they disagree with that decision and are appealing. In their view it is unnecessary to require mandatory partisan disclosure because it requires public disclosure of the voters partisan preference and there is a significant amount of cost associated with mandatory partisan registration beyond what is noted on the Statement of Purpose.

Larry Grant, Chairman, Idaho Democratic Party, stated they believe in the open primary system and this concept came from a fraction of the Idaho Republican Party which needs to be resolved within the party.

Ben Ysursa, Secretary of State, responded that fiscal note on the legislation comes directly from the Secretary of State, and provided the actual cost of this legislation.

MOTION:

Vice Chairman Fulcher made a motion to send S 1198 to the Senate floor with a do pass recommendation. **Senator McGee** seconded the motion.

Senator Malepeai stated he was concerned with this legislation because of the public knowledge that could be disclosed, especially for individuals that want to vote democratic but live in a republican dominated county. Also, how much will this cost the state to educate people on how the new process will work.

The motion carried by voice vote.

ADJOURNMENT:

There being no further business **Chairman McKenzie** adjourned the meeting at 9:37 a.m.

Senator McKenzie
Chairman

Jennifer Novak

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, April 01, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>RS20735</u>	Regarding the National Guard Youth Challenge Program.	Senator Bert Brackett
<u>RS20728</u>	This proclamation commends the College of Southern Idaho Golden Eagles men's basketball team for their success in winning the National Junior College Athletic Association Championship. This proclamation also recognizes Pierre Jackson, who was named Most Valuable Player, as well as head coach, Steve Gofar, who was named National Coach of the Year.	Senator Lee Heider
<u>GUBERNATORIAL APPOINTMENTS</u>		
Idaho Endowment Fund Investment Board		
M. Dean Buffington, serving a term commencing April 12, 2011 and expiring April 11, 2015.		
Max C. Black, serving a term commencing April 11, 2011 and expiring April 11, 2015.		
Charles L. Winder, serving a term commencing April 11, 2011 and expiring April 11, 2015.		
Bingo-Raffle Advisory Board		
(Telephone Interview)		
Dennis P. Duehren, serving a term commencing February 2, 2011 and expiring January 7, 2014.		
Wendy W.C. Diessner, serving a term commencing February 2, 2011 and expiring January 7, 2014.		
<u>H 275</u>	This legislation addresses the administration of elections in the state. The bill extends the ability to request a recount of ballots to issue elections and political subdivisions, identifies how long specific elections records are to be retained, and clarifies in the statutes various election administration procedures.	Tim Hurst, Secretary of State
<u>H 328</u>	This legislation amends Idaho Code regarding fees for public records.	Senator Chuck Winder

GUBERNATORIAL APPOINTMENT

Confirmation vote on Shelly Jo Enderud to the
State Building Authority

Confirmation vote on Bud Tracy to the State
Building Authority

APPROVAL OF MINUTES

February 2, 2011
February 4, 2011
February 11, 2011
March 9, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

Room: WW42

Phone: (208) 332-1326

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, April 01, 2011
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/ EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 8:03 a.m..

RS20735 Regarding the National Guard Youth Challenge Program
Senator Bert Brackett presented the legislation.

MOTION **Senator Winder** moved, seconded by **Senator Malapeai**, to print RS20735. The motion passed by voice vote.

RS20728 This proclamation commends the College of Southern Idaho Golden Eagles men's basketball team for their success in winning the National Junior College Athletic Association Championship. This proclamation also recognizes Pierre Jackson, who was named Most Valuable Player, as well as head coach, Steve Gofar, who was named National Coach of the Year.

Senator Lee Heider presented the legislation.

MOTION **Senator McGee** moved, seconded by **Senator Hill**, to print RS20728. The motion passed by voice vote.

GUBERNATORIAL APPOINTMENT

Idaho Endowment Fund Investment Board

M. Dean Buffington, serving a term commencing April 12, 2011 and expiring April 11, 2015.

Mr. Buffington is an attorney and is a partner in an investment company. He serves as the Chairman of the Endowment Fund Investment Board.

Max C. Black, serving a term commencing April 11, 2011 and expiring April 11, 2015.

Mr. Black is a Representative in the Idaho House of Representatives. **Senator Hill** asked **Representative Black** what, in his opinion, is the purpose of the Investment Board. **Representative Black** replied that part of the responsibilities involved finding the best investment advisors and to oversee the investment of the funds.

Charles L. Winder, serving a term commencing April 11, 2011 and expiring April 11, 2015.

Mr. Winder is a Senator in the Idaho Senate. **Senator Winder** said that it has been a pleasure to be on the Endowment Fund Investment Board and feels the Board has made some excellent decisions for the State of Idaho.

Bingo-Raffle Advisory Board

Dennis Duehren, serving a term commencing February 2, 2011 and expiring January 7, 2014.

Mr. Duehren is newly appointed to the Bingo-Raffle Advisory Board. He has been active with the Rotary Club bingo fund-raiser program in Montpelier for 8 years.

Wendy W.C. Diessner, serving a term commencing February 2, 2011 and expiring January 7, 2014.

Ms. Diessner is the Director of Operations for the YWCA of Lewiston.. In that position, she is responsible for the fund-raising bingo program. **Vice Chairman Fulcher** thanked **Ms. Diessner** for her service and asked her if, in her opinion, there are any challenges to raising funds by having bingo games. **Ms. Diessner** replied that, with the costs of supplies, etc. going up, it makes it hard to stay within the percentage allowed by statute and still raise funds. **Vice Chairman Fulcher** asked if the same people attend the bingo games regularly. **Ms. Diessner** said that yes the attendees are mostly the same people.

H 275

This legislation addresses the administration of elections in the state. The bill extends the ability to request a recount of ballots to issue elections and political subdivisions, identifies how long specific elections records are to be retained, and clarifies in the statutes various election administration procedures.

Tim Hurst, Secretary of State office, stated that this legislation is required to update election administration in the state of Idaho. It also clarifies existing legislation.

MOTION

Senator Winder moved, seconded by **Senator Lodge**, to send H 275 to the floor with a do pass recommendation. The motion carried by voice vote.

H 328

This legislation amends Idaho Code regarding fees for public records.

Representative Gayle Batt presented testimony for the bill which would legislate how state agencies determine who pays for information requested and how much they should charge. Now, under the present Idaho Code, some requesters pay too much and some pay nothing at all. This legislation would balance the public's rights to obtain records and the right of the State to charge for those records.

Bob Naerebout, Idaho Dairymens Association, stated that a good deal of time and effort has been put into bringing many agencies and associations together to agree on this legislation.

MOTION

Senator Hill moved, seconded by **Senator Lodge**, to send H 328 to the floor with a do pass recommendation. The motion carried by voice vote.

CONFIRMATION VOTE

Vice Chairman Fulcher moved to send the gubernatorial appointment of **Shelly Jo Enderud** to the State Building Authority to the floor with the recommendation that it be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion passed by voice vote.

Senator Hill moved to send the gubernatorial appointment of **Bud Tracy** to the State Building Authority to the floor with the recommendation that it be confirmed by the Senate. **Senator McGee** seconded the motion. The motion passed by voice vote.

**APPROVAL OF
MINUTES**

Senator Winder moved, seconded by **Senator Stennett**, to approve the minutes of March 9, 2011. The motion passed by voice vote.

Senator Stennett moved, seconded by **Senator McGee**, to approve the minutes of February 11, 2011. The motion passed by voice vote.

Senator Lodge moved, seconded by **Senator McGee**, to approve the minutes of February 2, 2011 and February 4, 2011. The motion passed by voice vote.

ADJOURN

Chairman McKenzie adjourned the meeting at 8:45 a.m.

Senator McKenzie
Chairman

Karla Mitchell
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
 8:00 A.M.
 Room WW55
 Monday, April 04, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H 264</u>	Relating to veteran preferences	Representative Darrell Bolz
<u>H 230</u>	Relating to verification of lawful presence in the United States, amending Idaho Code to provide for an action to be subject to criminal penalty and to revise criminal penalties.	Representative Christy Perry
<u>H 191</u>	The purpose of this proposed legislation is to authorize pari-mutuel wagering on the result of a live horse race meet at a facility not located on the grounds of a live horse race meet facility.	Representative Carlos Bilbao
<u>H 298</u>	Relating to the Health Care Law.	Senator Monty Pearce
<u>RS20729</u>	Relating to highways and bridges	Senator John McGee
<u>RS20739</u>	This legislation extends the sunset date of July 1, 2011 contained in Idaho Code Section 63-3622QQ to December 31, 2014 providing that the taxpayer obtain by October 31, 2011 a power purchase agreement between a utility and the taxpayer for the sale of electricity generated from a wind or solar qualifying facility. Code Section 63-3622QQ provides a rebate of the sales and use tax for purchases of machinery and equipment used in generating electricity using fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power.	Representative George Eskridge
<u>RS20738</u>	This legislation provides guidance to the Idaho Public Utilities Commission regarding implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA) with respect to wind and solar energy resources.	Senator Curtis McKenzie

GUBERNATORIAL APPOINTMENT

Confirmation vote on M. Dean Buffington, to the Idaho Endowment Fund Investment Board

Confirmation vote on Max C. Black to the Idaho Endowment Fund Investment Board

Confirmation vote on Charles L. Winder to the
Idaho Endowment Fund Investment Board

Confirmation vote on Dennis P. Duehren to the
Bingo-Raffle Advisory Board

Confirmation vote on Wendy W.C. Diessner to the
Bingo-Raffle Advisory Board

APPROVAL OF MINUTES

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, April 04, 2011

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

Chairman McKenzie called the meeting to order at 7:02 a.m.

H 264 Relating to Veteran Preferences. **Representative Darrell Bolz** explained Chapter 5, Title 65, Idaho Code, was significantly revised in 2006. In ensuing years, the Department of Labor and the Division of Veterans Services have complied concerns from veterans and public employers and noted desirable technical revisions. This legislation clarifies existing definitions and includes new definitions. These definitions allow substantive provisions to be streamlined and provide greater precision to those provisions. This legislation also revises the appeals process to require that employers provide notice of the process and clarifies the time periods and methods of appeal. Lastly, this legislation authorizes the Division of Veterans Services and the Department of Labor to provide technical assistance and education to public employers, veterans and other interested parties concerning the Idaho veteran's preference.

Senator McGee questioned if there was any opposition towards these changes? **Representative Bolz** stated he has not heard any opposition.

MOTION **Senator McGee** made a motion to send H 264 to the Senate floor with a do pass recommendation. **Senator Lodge** seconded the motion. The motion carried by voice vote

H 230 Relating to Verification of Lawful Presence in the United States. **Representative Christy Perry** stated this proposed legislation seeks to amend Idaho Code 67-7903 to state that anyone who "knowingly provides a social security number that has not been assigned to him" and uses that information to secure public benefits will be guilty of a misdemeanor for the first two offenses and a felony for each subsequent offense.

Senator Davis questioned if this legislation had been reviewed by the Idaho Prosecuting Attorneys Association. **Representative Perry** stated it had not.

MOTION **Senator Hill** made a motion to send H 230 to the Senate floor with a do pass recommendation. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

H 191

Relating to Pari-Mutuel Betting. **Representative Carlos Bilbao** explained that this legislation is an amendment to Idaho Code, Section 54-4512, regarding simulcasting. This legislation would allow simulcast licenses held by a live track to be held in an off-track facility. The simulcast facility cannot be located within 30 miles of a live horse track unless the owner of the live horse track gives permission. A portion of the money taken for simulcasting goes to the Idaho Horse Board for youth programs and to the Robert E. Lee Promise Scholarship Fund for college scholarships. .

Senator Winder asked if there was a difference between televised horse races and simulcast horse races. **Representative Bilbao** replied they are the same.

Senator McGee questioned if this legislation also included dog racing?

Representative Bilbao stated this legislation only pertains to horse racing.

Senator Stennett asked if there was a required legal age in order to participate. **Representative Bilbao** replied yes, no minor's would be allowed to participate.

Earl Lilley, I.Q.H.A., stated that he is 90 years old, shooting for 100. He said that horse racing in the State of Idaho is almost as famous as the potato and he supports this legislation.

Sharon Pratt, Gem County Commissioners, expressed support for this legislation. Also the large purses assist with maintaining facilities and the cost of administrative staff.

Duayne Didericksen, Chairman, American Quarter Horse Association Racing Council, stated this legislation will generate two to five jobs at each facility that chooses to participate and encourages the committee to support the passage of H 191.

Ron Kay, Chairman, Gem County Fair Board, stated they support this legislation and view it as a way to help them maintain their facilities.

MOTION:

Senator Lodge made a motion to send H 191 to the Senate floor with a do pass recommendation. **Senator McGee** seconded the motion. A roll call vote was used to determine the motion. Ayes included: Senator McGee, Senator Winder, Senator Lodge, Senator Malepeai, and Senator Stennett. Nays included: Chairman McKenzie, Vice Chairman Fulcher, Senator Davis, and Senator Hill. The motion carries 5-4.

H 298

Relating to Health Care Law. **Representative Vito Barbieri** explained this legislation would expand the Idaho Health Freedom Act to include greater protections for Idaho employers, insurers and medical providers. It would also stop the operability of the Patient Protection and Affordable Care Act's discretionary provisions while providing a verification process to protect taxpayers against the unnecessary implementation of the PPACA during fiscal year 2012.

Senator Stennett questioned if the funds that the State has already received will be affected by this legislation? **Representative Barbieri** stated as he understands the funds currently received will not be affected.

Senator McGee requested a few examples of the discretionary provisions. **Representative Barbieri** responded the first and foremost and probably most expensive would be the exchanges. The exchanges do not need to be set up until 2013 so there is a provision that is not necessary at this time nor is the money needed to set this up immediately.

Michael Roy, Idaho Citizens for Principled Government, urged the committee to vote yes on the passage of H 298.

Wayne Hoffman, Executive Director, Idaho Freedom Foundation, spoke in support of this legislation.

Chairman McKenzie clarified that as long as our lawsuit is going on the state will implement the requirements that are mandated to the state, but the state will not go beyond that point. This is a policy position by the state that does have a cost attached.

Senator Lodge inquired if the taxpayers of the State of Idaho have to pay any of the cost besides what the state may mandate, or payback for any services that the state is not going to receive from the federal government? **Mr. Hoffman** replied he did not believe it would cost the taxpayers.

MOTION: **Vice Chairman Fulcher** made a motion to send H 298 to the Senate floor with a do pass recommendation. **Senator Winder** seconded the motion. The motion carried by voice vote.

RS 20729 Relating to Highways and Bridges. **Senator John McGee** explained this legislation modifies the specified list of eligible highway projects on which the Idaho Transportation Board is authorized to use federal-aid highway funds to pay the principal, interest, and other debt service costs incurred from bonds issued by the State. Authority for bonding on six projects, for which bonding has previously been authorized and utilized, is being maintained. Unused authority for bonding on seven projects, for which no bonds have been sold, is being removed. New authority is being granted to the Idaho Transportation Board to utilize bond funding on a statewide Bridge Safety Program project.

The maximum term of additional bonds would likely be eighteen years. Presently, Idaho receives approximately \$291 million a year in federal-aid highway funding.

Senator McGee stated from a procedural point of view, he would request just to have this legislation printed for discussion and not proceed any further.

MOTION: **Senator Winder** made a motion to send RS 20729 to print. **Senator Malepeai** seconded the motion. The motion carried by voice vote. **Chairman McKenzie** then turned the gavel over to **Vice Chairman Fulcher**.

RS 20739 **Chairman McKenzie** requested the committee hold RS 20739, as there have been a few roadblocks preventing the committee from proceeding any further. **Chairman McKenzie** then requested the committee to print RS 20738 which provides guidance to the Idaho Public Utilities Commission regarding implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA) with respect to wind and solar energy resources.

MOTION: **Senator Davis** made a motion to send RS 20738 to print. **Senator Winder** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION **Chairman McKenzie** stated the committee would vote on the recommendation to confirm the appointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board to serve a term commencing April 12, 2011 and expiring April 11, 2015.

MOTION: **Senator McGee** moved to send the gubernatorial appointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board to the Senate floor with a do confirm recommendation. **Senator Lodge** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION The committee would now vote on the recommendation to confirm the appointment of Max C. Black to the Idaho Endowment Fund Investment Board to serve a term commencing April 11, 2011 and expiring April 11, 2015.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Max C. Black to the Idaho Endowment Fund Investment Board to the Senate floor with a do confirm recommendation. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION The committee would now vote on the recommendation to confirm the appointment of Charles L. Winder to the Idaho Endowment Fund Investment Board to serve a term commencing April 11, 2011 and expiring April 11, 2015.

MOTION: **Senator McGee** moved to send the gubernatorial appointment of Charles L. Winder to the Idaho Endowment Fund Investment Board to the Senate floor with a do confirm recommendation. **Vice Chairman Fulcher** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION The committee would now vote on the recommendation to confirm the appointment of Dennis P. Duehren to the Bingo-Raffle Advisory Board to serve a term commencing February 2, 2011 and expiring January 7, 2014.

MOTION: **Senator Lodge** moved to send the gubernatorial appointment of Dennis P. Duehren to the Bingo-Raffle Advisory Board to the Senate floor with a do confirm recommendation. **Senator Hill** seconded the motion. The motion carried by voice vote.

GUBERNATORIAL CONFIRMATION The committee would now vote on the recommendation to confirm the appointment of Wendy W.C. Diessner to the Bingo-Raffle Advisory Board to serve a term commencing February 2, 2011 and expiring January 7, 2014.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Wendy W.C. Diessner to the Bingo-Raffle Advisory Board to the Senate floor with a do confirm recommendation. **Senator Stennett** seconded the motion. The motion carried by voice vote.

MINUTES: **Senator Hill** made a motion to approve the minutes of February 14, February 18, March 7, and March 25. **Senator Stennett** seconded the motion. The motion carried by voice vote.

ADJOURNMENT There being no further business **Chairman McKenzie** adjourned the meeting at 8:20 a.m.

Senator McKenzie
Chairman

Jennifer Novak

AGENDA
SENATE STATE AFFAIRS COMMITTEE
7:30 A.M.
Room WW55
Thursday, April 07, 2011

SUBJECT	DESCRIPTION	PRESENTER
<u>H 348</u>	This legislation provides guidance to the Idaho Public Utilities Commission regarding implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA) with respect to solar and wind energy resources.	Representative Scott Bedke
<u>RS20446</u>	The minimum legal requirements for auto liability insurance (proof of financial responsibility) for motor vehicle accidents have not been raised for 28 years (since 1983). This legislation would change those minimum requirements.	Bill Litster
<u>RS20450</u>	This legislation will provide that the optional underinsured vehicle coverage purchased by the consumer will be available in its entirety when it is needed, should the insurance of the at fault driver be exhausted by medical bills, lost wages, and other damages.	Bill Litster

APPROVAL OF MINUTES

February 9, 2011

April 1, 2011

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Vice Chair Fulcher

Sen Davis

Sen Hill

Sen McGee

Sen Winder

Sen Lodge

Sen Malepeai

Sen Stennett

COMMITTEE SECRETARY

Karla Mitchell

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MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Thursday, April 07, 2011
TIME: 7:30 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Fulcher, Senators Davis, Hill, McGee, Winder, Lodge, Malepeai, and Stennett
ABSENT/EXCUSED:
NOTE: The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

MINUTES **Chairman McKenzie** called the meeting to order at 7:30 a.m.

H 348 This legislation provides guidance to the Idaho Public Utilities Commission regarding implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA) with respect to solar and wind energy resources.

Representative Scott Bedke presented the bill. He stated that this bill is the title 61 material that was in H337. It was felt that the issues should be split into two pieces of legislation. H348 only deals with PURPA contracts. In particular, starting with line 28 of the bill: *Only PURPA solar and wind qualifying facilities whose 29 total maximum design capacity is one hundred (100) kilowatts or less shall be 30 eligible to receive the standard, or published, avoided cost rates in a power 31 purchase agreement with a public utility. This section only applies to power 32 purchase agreements for PURPA solar and wind projects filed with the public 33 utilities commission on or after the effective date of this section.*

Senator Davis questioned how the 100 kw that is mentioned is obtained. **Representative Bedke** deferred the question to **Rich Hahn**, Idaho Power. **Mr. Hahn** explained that those were the minimums when PURPA was enacted in 1978. At this time, most of the wind machines generate 15000 kw or more.

MOTION **Senator Winder** moved, seconded by **Senator Lodge**, to move H348 to the floor with a do pass recommendation. The motion carried by voice vote.

RS20446 The minimum legal requirements for auto liability insurance (proof of financial responsibility) for motor vehicle accidents have not been raised for 28 years (since 1983). This legislation would change those minimum requirements.

Bill Litster, a retired Attorney, presented this legislation, which raises the minimum auto insurance required by law. The average increase a month for the increased minimum standards would be \$2.50 - \$3.75. **Senator Davis** commented that he sponsored the same legislation when he was first in the legislature and, although it didn't get through, he still thinks it is necessary. **Senator Winder** said that he would like to see some attention paid in the future to those drivers who have no insurance.

- RS20450** This legislation will provide that the optional underinsured vehicle coverage purchased by the consumer will be available in its entirety when it is needed, should the insurance of the at fault driver be exhausted by medical bills, lost wages, and other damages.
- Bill Litster** explained that RS20450 would deal with underinsured vehicle coverage. It would make the underinsured coverage purchased by an auto owner available for use. **Mr. Litster** said that at this time, many of the insurance companies that sell underinsured coverage have exclusions that make payment from this coverage difficult to obtain. To his knowledge, State Farm Insurance is the only automobile insurance company that sells true underinsured coverage at this time.
- MOTION** **Senator Davis** moved, seconded by **Vice Chairman Fulcher**, to print **RS20446** and **RS20450**. The motion carried by voice vote.
- APPROVAL OF MINUTES** **Senator Hill** moved, seconded by **Senator Stennett**, to approved the minutes for February 9, 2011 and April 1, 2011. The motion carried by voice vote.
- ADJOURN** **Chairman McKenzie** adjourned the meeting at 7:55 a.m. **Chairman McKenzie** said that any more meetings will be scheduled at the call of the Chair.

Senator McKenzie
Chairman

Karla Mitchell
Secretary